Calendar No. 438

96TH CONGRESS
1st Session

SENATE

REPORT
No. 96-408

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ON

H.R. 3236. A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT TO PROVIDE BETTER WORK INCENTIVES AND IMPROVE ACCOUNTABILITY IN THE DISABILITY INSURANCE PROGRAMS, AND FOR OTHER PURPOSES

NOVEMBER 8 (legislative day, NOVEMBER 5), 1979.—Ordered to be printed

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Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 3236]

The Committee on Finance, to which was referred the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improve accountability in the disability insurance programs, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. Summary

DISABILITY INSURANCE

Present benefit structure.—Social security disability insurance benefits are based on an individual's previous earnings. The formula for determining benefit amounts is the same for disability benefits as for social security retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by five. The basic benefit amount may be increased if the worker has a dependent spouse or children. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Limit on family benefits.—A provision of the House bill (H.R. 3236) would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). (AIME is the basis used under present law for determining benefit amounts.) The committee bill would limit total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals who first become entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. The committee bill includes a provision, which would apply to all disabled workers who first become entitled after 1979, that would exclude years of low earnings (or no earnings) in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision would become effective in January 1980.

Medicare waiting period.—At the present time DI beneficiaries must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed. The committee bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows and widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods.

Extension of medicare for DI beneficiaries.—Under present law, medicare coverage ceases when an individual loses his disability status. The committee would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered.

SUPPLEMENTAL SECURITY INCOME

Benefits for SSI recipients who perform substantial gainful activity.—Under present law an individual qualifies for SSI disability payments only if he is "unable to engage in any substantial gainful

activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than 12 months." The Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in substantial gainful activity is $280 a month. Thus, when an SSI recipient has earnings (following a trial work period) which exceed this amount, he loses eligibility for cash benefits and may also lose eligibility for medicaid and social services.

The committee bill includes an amendment which provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefits to be reduced to zero ($481 at the present time), the special benefit status would be terminated for purposes of eligibility for medicaid and social services, unless the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision authorizing continuation of medicaid and social services after a finding by the Secretary would also apply to the blind. The committee provision would be limited to three years to give the committee the opportunity to review the effectiveness of the provision. The committee provision also requires the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

Employment in sheltered workshops.—Under present law, earnings from employment in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining the payment under SSI. The committee bill provides that earnings received in sheltered workshops and work activities centers would be considered as earned income, rather than unearned income, for purposes of determining SSI benefits. This would assure that individuals with earnings from these kinds of activities would have the advantage of the earned income disregards provided in law for earnings from regular employment.

Deeming of parents' income to disabled or blind children.—Present law requires that the parents' income and resources be deemed to a blind or disabled child in determining the child's eligibility for SSI.

The term "child" is defined to include individuals under 18, or 22 in the case of an individual who is in school or in a training program. The committee bill provides that for purposes of SSI eligibility determination, the "deeming" of parents' income and resources would be limited to disabled or blind children under 18 regardless of student status. Those individuals who on the effective date of the provision are age 18 and over are receiving benefits at that time and would be protected against loss of benefits due to this change.

PROVISIONS RELATING TO THE TITLE II AND TITLE XVI DISABILITY PROGRAMS

Termination of benefits for persons in vocational rehabilitation programs.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled in a vocational rehabilitation program. The committee bill provides that disability benefits would not be terminated due to medical recovery if the beneficiary is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

Deduction of impairment-related work expenses.—The committee bill includes a provision to permit the deduction of costs of impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity. This deduction would be made both in the case where the individual pays the costs himself, and where the cost is paid by a third party. The Secretary of HEW would be given authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA, and the amount of earnings to be excluded subject to such reasonable limits based on actual, prevailing costs as the Secretary would prescribe.

Reentitlement to benefits.—Under present law, when an individual completes a 9-month trial work period and continues to perform substantial gainful activity, his benefits are terminated. If he later becomes unable to work, the individual must reapply for benefits and go through the adjudication process again. The committee bill provides that for purposes of the DI and SSI programs the present 9-month trial work period would be extended to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under persent law, when the 9-month trial work period is completed, three additional months of benefits are provided. The committee provision would not alter this aspect of present law.)

Administration by State agencies.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. The committee bill would require that disability determinations be made

by State agencies according to regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The committee bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the provision allows for termination by the State. The State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency determinations.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of disability claims approved by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. The committee amendment would have the effect, over time, of reinstituting a review procedure used by SSA until 1972 under which most State disability allowances were reviewed prior to the payment of benefits. The committee bill provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter.

Periodic review of disability determinations.—Under current administrative procedures, a disability beneficiary's continued eligibility for benefits is reexamined only under a limited number of circumstances. The committee bill would require that unless there has been a finding that an individual's disability is permanent, there would have to be a review of the case at least once every 3 years to determine continuing eligibility. The Social Security Administration would continue to be authorized to review the eligibility of permanently disabled individuals.

Other administrative changes.—The committee bill includes a number of other provisions intended to strengthen administrative practices particularly in regard to the handling of initial claims and cases denied which are under appeal. These provisions would:

1. Require that notices of disability denial be provided to claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied.

2. Authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II claims as is done in title XVI (SSI) claims.

3. Provide permanent authority for payment of the travel expenses of claimants (and their representatives in the case of reconsiderations and ALJ hearings) resulting from participation in various phases of the adjudication process.

4. Eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the

court to the Secretary upon motion by the Secretary. Instead, remand would be discretionary with the court, and only on motions by the Secretary where "good cause" was shown.

5. Continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but add the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

6. Modify present law with respect to court review to provide that the Secretary's determinations with respect to facts would be final unless found to be arbitrary and capricious.

7. Foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

8. Require the Secretary to submit a report to Congress by July 1, 1980, recommending appropriate case processing time limits for the various levels of adjudication.

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CHILD SUPPORT PROGRAMS

AFDC work requirement.—Under present law, recipients of AFDC are required to register for manpower training and employment services under the work incentive (WIN) program, unless they are statutorily exempt. Individuals who participate in the WIN program also receive supportive services, including child care, if these services are necessary to enable them to participate. Under the committee amendment AFDC recipients who are not exempt from registration by law would be required, as a condition of continuing eligibility for AFDC, to register for, and participate in, employment search activities, as a part of the WIN program. The amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment, and for a period thereafter, as are necessary and reasonable to enable him to retain employment. In addition, it would allow States to match the Federal share for social and supportive services with inkind goods and services, instead of being required to make only a cash contribution. The amendment would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and Health, Education, and Welfare to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program. The amendment would also clarify the treatment of earned income derived from public service employment.

Matching for AFDC antifraud activities.—Under present law, Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. The committee amendment would increase the matching rate to 75 percent for State and local

antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for the costs identifiable as AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

Use of IRS to collect child support for non-AFDC families.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. The committee amendment would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Safeguarding information.—Present law provides in part that State plans under title IV–A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption. The committee bill would modify this section of the act to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

Federal matching for child support duties performed by court personnel.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

The committee bill would allow Federal matching for these administrative expenses of the IV–D program. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV–D functions, but only for those functions specifically identifiable as IV–D functions. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

Child support management information system.—Under present law States and localities that wish to establish and use computerized information systems in the management of their child support programs receive 75 percent Federal matching of their expenditures. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate. Under the amendment, the Office of Child Support Enforcement would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. Continuing review of the State systems would also be required.

AFDC management information system.—States may currently receive 50 percent Federal matching for the cost of computerized management information systems as an element of AFDC administrative costs. The committee amendment would increase the rate of matching to 90 percent for the costs of developing and implementing the computer information systems and to 75 percent for their operation, provided the system meets the requirements imposed by the amendment. Under the amendment, the Department of Health, Education, and Welfare would be required to provide technical assistance to the States and to approve the State system as a condition of Federal matching. (Continuing technical assistance and review of the State systems would also be required.) In approving systems, the Department would have to assure compatibility among the other public assistance, medicaid, and social service systems in the States and among the AFDC systems of different jurisdictions.

Child support reporting and matching procedures.—Present law requires that the Federal Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. Present law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required.

The committee amendment would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Access to wage information for child support program.—Under title IV–D of the Social Security Act, States are required to have separate child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families if they apply for child support services. HEW regulations require

the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

The committee amendment would provide authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies for purposes of the child support program. The Labor Department and the Department of HEW would be authorized to establish necessary safeguards against improper disclosure of the information.

OTHER PROVISIONS AMENDING THE SOCIAL SECURITY ACT

Relationship between social security and SSI benefits.—A substantial proportion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefits beyond the beginning of the current quarter. The committee amendment provides that an individual's entitlement under the two titles shall be considered as a totality so that if payment under title II is delayed and therefore results in a higher payment under title XVI, the adjustment made in the case of any individual would be the net difference in total payment. There would be proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursements would also be made to the States where State supplementary benefits are involved.

Extension of term of the National Commission on Social Security.—The committee bill would extend for three months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

Frequency of FICA deposits from State and local governments.—Under current regulations, State and local governments are required to deposit their FICA taxes 45 days after the end of each calendar quarter. Regulations recently promulgated would increase the frequency of the deposits to a monthly schedule beginning in July 1980. These regulations require that FICA deposits for the first 2 months in a calendar quarter be due 15 days after the end of each month, and that deposits for the third month of the calendar quarter be due 45 days after the end of that month. These regulations were issued in final form on November 20, 1978, and by law cannot become effective until at least 18 months have passed from the date of final publication. The committee bill includes a provision requiring that FICA deposits from State and local governments be due 30 days after the end of each month. The provision would be effective beginning July 1980.

Aliens under SSI.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise

permanently residing in the United States "under color of law". The latter category refers primarily to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported. However, such assurances are not legally binding on the sponsor of the alien. Under present law, an alien is required to be in the United States for only 30 days before becoming eligible for SSI. The committee amendment would require an alien to reside in the United States for 3 years before he would be eligible for SSI.

Demonstration authority to provide services to the terminally ill.—The committee bill authorizes the Social Security Administration to participate in a demonstration project which has as its purpose to determine how best to provide services needed by persons who are terminally ill. The committee provision authorizes up to $2 million a year to be used by the Social Security Administration for this purpose.

Demonstration projects.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI, and XVIII to conduct experimental or demonstration projects. The committee bill would authorize the waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, with a report to Congress required by January 1, 1983. The bill would also provide demonstration authority to cover other areas of the DI program beyond the purpose of stimulating a return to work (for example, the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation).

In addition, the Secretary would be authorized to conduct experimental, pilot, or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program.

The committee bill would authorize the Secretary to waive certain requirements of the human experimentation statute, but would require that the Secretary in reviewing any application for any experimental, pilot, or demonstration project pursuant to the Social Security Act must take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation statute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

Social security tax status of employee social security taxes paid by employers.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under

this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that for a given level of total compensation, somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages. Because of the level of social security taxes now in effect, this procedure could significantly lower social security trust fund receipts if the practice became widespread. The committee amendment would include the amount of any employer payment of the employee share of social security taxes in the employee's taxable income for purposes of social security taxation. The amendment would not apply to situations in which the employee share of social security taxes are paid by an employer for an individual who is employed as a domestic.

II. General Discussion of the Bill

A. Social Security Disability Programs

Introduction and Legislative History

The Social Security Administration is charged with the administration of two national disability programs: the disability insurance program (DI) and the supplemental security income program (SSI). The disability insurance program provides benefits in amounts related to a disabled worker's former wage levels in covered employment. Funding is provided through the social security payroll tax, a portion of which is allocated to a separate disability insurance trust fund. The SSI program provides cash assistance benefits to the needy blind and disabled, many of whom do not have recent attachment to the labor force. The benefit amount is based on the amount of other income available to the individual. Unlike DI benefits, the SSI benefits are funded through appropriations from general revenues.

Disability insurance.—The disability insurance (DI) program established by title II of the Social Security Act provides monthly benefits averaging $320 to some 2.9 million disabled workers. Benefits are also payable under the program to approximately 2 million dependent spouses and children of these disabled workers. For a disabled-worker *family*, monthly benefits average $639. The maximum benefit which could be paid to a worker who becomes disabled in 1979 is $552 for a disabled worker alone or $967 for a disabled worker family.

Although the original Social Security Act of 1935 did not include provision for a disability insurance program, there was early concern with the problem of loss of earnings due to disability. In the 1940's the Social Security Board in its annual reports generally supported the addition of some kind of disability program to the social security system.

The Congress had various proposals for a disability program under its active consideration in the next few years. Finally, in the Social Security Amendments of 1954, the Congress included a provision for a disability "freeze" which would allow disabled workers to protect their ultimate retirement benefits against the effects of non-earning years, becoming effective in July 1955. The amendments

provided that the determination of who was disabled would be made by State agencies under contract with the Federal Government. It was expected that the agency used would ordinarily be the State vocational rehabilitation agency.

The 1956 amendments established the Disability Insurance Trust Fund and provided for the payment of benefits to disabled workers (but not to their dependents) starting in July 1957. Benefits were limited to workers age 50 or over who had recent and substantial attachment to the social security program. The disability had to be severe enough to prevent the individual from engaging in any substantial employment and to be of "long-continued and indefinite duration." For eligible individuals, benefits were payable after a full 6-month waiting period. (If an individual became disabled on January 15, the waiting period would be February through July. The first check, for the month of August, would be payable at the beginning of September.)

The disability benefit formula was essentially the same as the formula for retirement benefits, under which the benefit amount is determined according to the worker's lifetime average earnings (excluding in this case years of disability in computing the average). Since the benefits were at this time limited to workers age 50 or over, their general wage histories could be expected to be comparable to retired workers. For this reason, there was no compelling reason to develop a new method of determining benefits.

The 1956 amendments also provided for the payment of benefits to disabled children age 18 and over who were dependents of retired workers or survivors of deceased workers (provided that the disability began before the child reached age 18).

The Secretary of Health, Education, and Welfare was given the authority to reverse cases that had been *allowed* by the State agencies which made the original determinations. The basic purpose of this provision was to protect the trust fund from being forced to pay benefits in cases that should not have been allowed in the first instance, and to promote more uniform administration of the program among the States.

Subsequent amendments added provisions for benefits to dependent spouses and children of disabled workers (1958) and eased the requirements related to prior work under social security (1958 and 1960). Also in 1960, the limitation of benefits to workers age 50 or over was eliminated. The lowering of the age of eligibility had a significant impact on how the benefit computation formula operated. Since benefits are based on lifetime average earnings (excluding years of disability), benefits for workers who became disabled at a young age would be based on a very small number of years of earnings (as few as 2). This can lead to quite different results from the situation of a retired worker whose earnings are averaged over a relatively large number of years. However, no change in the disability benefit formula was made.

Certain provisions in the 1960 amendments were aimed at encouraging beneficiaries to return to employment. They provided for a nine-month period of "trial work," during which the disabled individual could have earnings without having his benefits terminated. They also

eliminated the 6-month waiting period for benefits if a worker applied for disability a second time after failing in his attempt to return to work.

In 1965, the definition requiring that a disability be of "long-continued and indefinite duration" was changed to permit benefits for disabilities expected to last at least 12 months. Benefits for disabled widows and disabled dependent widowers age 50 and over were added in 1967. In 1972, the 6-month waiting period (established in 1956) was reduced to 5 months.

As the program grew, the Congress began expressing considerable concern over the increased allocations to the disability trust fund which had been required to meet actuarial deficiencies. The Finance Committee, in its report on the 1967 Social Security Amendments, commented:

> The committee recognizes and shares the concern expressed by the Committee on Ways and Means regarding the way this disability definition has been interpreted by the courts and the effects their interpretations have had and might have in the future on the administration of the disability program by the Social Security Administration. * * * The studies of the Committee on Ways and Means indicate that over the past few years the rising cost of the disability insurance program is related, along with other factors, to the way in which the definition of disability has been interpreted. The committee therefore includes in its bill more precise guidelines that are to be used in determining the degree of disability which must exist in order to qualify for disability insurance benefits.

The 1967 amendments were intended to emphasize the role of medical factors in the determination of disability. Since the beginning of the program, the Social Security Administration had been operating under guidelines that allowed consideration of certain vocational factors. However, these were being interpreted in varying ways, and there was believed to be a need to write into the law additional language which would define vocational factors in such a way that they could be interpreted and applied on a more uniform basis. The new language specified that an individual could be determined to be disabled only if his impairments were of such severity that he "is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work."

The committee report discussed this provision further:

> The original provision was designed to provide disability insurance benefits to workers who are so severely disabled that they are unable to engage in any substantial gainful activity. The bill would provide that such an individual would be disabled only if it is shown that he has a severe medically determinable physical or mental impairment or impairments: that

> if, despite his impairment or impairments, an individual still can do his previous work, he is not under a disability; and that if, considering the severity of his impairment together with his age, education, and experience, he has the ability to engage in some other type of substantial gainful work that exists in the national economy even though he can no longer do his previous work, he also is not under a disability regardless of whether or not such work exists in the general area in which he lives or whether he would be hired to do such work. It is not intended, however, that a type of job which exists only in very limited numbers or in relatively few geographic locations would be considered as existing in the national economy. While such factors as whether the work he could do exists in his local area, or whether there are job openings, or whether he would or would not actually be hired may be pertinent in relation to other forms of protection, they may not be used as a basis for finding an individual to be disabled under this definition. It is, and has been, the intent of the statute to provide a definition of disability which can be applied with uniformity and consistency throughout the Nation, without regard to where a particular individual may reside, to local hiring practices or employer preferences, or to the state of the local or national economy.

In the case of blind individuals, several amendments were adopted over the years which eased certain requirements of the disability program. The level of earnings above which an individual is considered not disabled is substantially higher for blind persons than for those with other disabilities. No recency of employment test is applied in determining eligibility for the blind. For blind persons age 55 or over, eligibility is based on their ability to perform work requiring skills and abilities comparable to those used in their usual work rather than on their ability to work at any job.

Supplemental security income.—The Social Security Act as originally written in 1935 did not provide for disability protection under either the insurance (trust fund) title or under the public assistance titles. (A public assistance program limited to the needy blind was, however, a part of the 1935 act.) In 1950 a public assistance program for the "totally and permanently disabled" was added to the Social Security Act. Under the public assistance programs for the blind and disabled, basic eligibility standards and assistance levels were determined by each State, and program administration was carried out by the States (or by local governments under overall State supervision). State expenditures for the program were funded by the States with Federal matching from general revenue appropriations according to formulas specified in the Federal statute.

In 1972, Congress repealed the public assistance programs for the blind and disabled (along with the similar program for the aged) and established a new federally administered program called supplemental security income (SSI). Under the new program (which became effective at the start of 1974), a basic Federal income support level is established for each aged, blind, and disabled person. Eligibility is determined and benefits are paid by the Social Security Administration.

States may supplement the basic Federal income support levels, and these State supplementary benefits may be administered either by the States or by the Social Security Administration on behalf of the States.

At the present time, the SSI program provides a monthly minimum Federal income support level of $208.20 for a disabled individual and $312.30 for a disabled couple. These amounts are increased automatically for cost of living changes. State supplementation levels vary widely from State to State and within States according to different living arrangements of recipients. (See table 1.)

The disability part of the SSI program follows generally the definition and administrative processes applicable to the disability insurance program. To be eligible, an individual must be sufficiently disabled to permit a finding that he will be unable to engage in any substantial work activity for at least a period of 1 year from the time he became disabled.

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Alabama (State)	$208.20	$312.30
Alaska (State)	335.00	502.00
Arizona (State)	208.20	312.30
Arkansas (None)	208.20	312.30
California (Federal)	356.00	660.00
Colorado (State)	221.00	442.00
Connecticut (State)	297.00	372.00
Delaware (Federal)	208.20	312.30
District of Columbia (Federal)	223.20	342.30
Florida (State)	208.20	312.30
Georgia (State)	208.20	312.30
Hawaii (Federal)	223.40	336.50
Idaho (State)	262.00	373.00
Illinois (State)	[1] 208.20	[1] 312.30
Indiana (State)	208.20	312.30
Iowa (Federal)	208.20	312.20
Kansas (None)	208.20	312.30
Kentucky (State)	208.20	312.30
Louisiana (None)	208.20	312.30
Maine (Federal)	218.20	327.30
Maryland (State)	208.20	312.30
Massachusetts (Federal)	324.45	494.30
Michigan (Federal)	242.29	363.44
Minnesota (State)	242.00	358.00
Mississippi (None)	208.20	312.30
Missouri (State)	208.20	312.30
Montana (Federal)	208.20	312.30
Nebraska (State)	295.00	406.00
Nevada (Federal)	208.20	312.30
New Hampshire (State)	237.00	332.00
New Jersey (Federal)	231.00	324.00
New Mexico (State)	208.20	312.30
New York (Federal)	271.41	391.78
North Carolina (State)	208.20	312.30
North Dakota (State)	208.20	312.30

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS—Continued

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Ohio (None)	$208.20	$312.30
Oklahoma (State)	287.20	470.30
Oregon (State)	220.20	322.30
Pennsylvania (Federal)	240.60	361.00
Rhode Island (Federal)	244.99	381.73
South Carolina (State)	208.20	312.30
South Dakota (State)	223.20	327.30
Tennessee (None)	208.20	312.30
Texas (None)	208.20	312.30
Utah (State)	218.20	332.30
Vermont (Federal)	247.00	[2] 384.00
Virginia (State)	208.20	312.30
Washington (Federal)	253.30	[2] 361.40
West Virginia (None)	208.20	312.30
Wisconsin (Federal)	294.40	451.50
Wyoming (State)	228.20	352.30

[1] State supplements in some cases but budgets each case individually regardless of living arrangements.

[2] State has two optional supplementation levels. This represents the higher amount payable to recipients in the State.

Note: "None" indicates no optional State supplementation. Where optional supplementation is indicated but the Federal levels of $208.20 and $312.30 are shown, the State optional supplementation does not apply in the case of individuals or couples in independent living arrangements. Mandatory supplementation may apply for certain individuals who were previously on State programs in effect prior to January 1974. Optional State supplementation may also apply for other living arrangements.

Source: HEW (data as of Oct. 1, 1979).

Development of the Programs

As table 2 shows, the Nation's basic cash disability programs have changed dramatically in the last decade both in benefit cost and in caseload. As can also be seen, there has been a major impact on administrative costs, and on the number of individuals employed by the State disability agencies to make disability determinations. Costs of cash benefits grew from about $3.7 billion in 1970, to nearly $18 billion in 1979.

Nor do these figures tell the whole story. There are also major benefit expenditures for disabled persons under the medicare and medicaid programs. Since July 1, 1973, persons who are entitled to disability benefits under the Social Security Act for at least 24 consecutive months become eligible to apply for medicare part A (hospital insurance) benefits beginning with the 25th month of entitlement and also to enroll in the part B (supplementary medical insurance) program. According to estimates for fiscal year 1979, about 700,000 persons will receive reimbursed services under part A during the year at a cost of $2.4 billion. About 1.7 million persons will receive reimbursed services under part B at a cost of $1.4 billion. With respect to the medicaid program, for which most SSI recipients are automatically eligible, statistics for fiscal year 1976 show that about 2.7 million disabled recipients received $3.5 billion in benefits (about 25 percent of total medicaid payments).

TABLE 2.—SOCIAL SECURITY DISABILITY PROGRAMS

Fiscal year	Beneficiaries (millions) (December each year)		Benefits paid (billions)			State agency program administration	
	Title II	Title XVI	DI trust fund	SSI federally administered	Total	Cost (millions)	Employees (thousands)
1970	2.7	[1] 1.0	$2.8	[2] $0.9	$3.7	$48.6	2.6
1971	2.9	[1] 1.1	3.4	[2] 1.1	4.5	63.4	3.2
1972	3.3	[1] 1.2	4.0	[2] 1.3	5.3	68.2	4.4
1973	3.6	[1] 1.4	5.2	[2] 1.5	6.7	80.4	6.3
1974	3.9	1.7	6.2	[2] 1.8	8.0	146.8	10.3
1975	4.4	2.0	7.6	3.0	10.6	206.8	10.1
1976	4.6	2.1	9.2	3.4	12.6	228.3	9.3
1977	4.9	2.2	11.1	3.7	14.8	254.2	9.4
1978	4.9	2.2	12.3	4.1	16.4	278.0	9.6
1979 (est.)	4.9	2.3	13.6	4.3	17.9	311.0	9.6

[1] The SSI program began Jan. 1, 1974. Numbers for prior years represent the number of blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled.

[2] Combined Federal and State expenditures for benefits paid to blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled. Figure for fiscal year 1974 combines the expenditures under both programs.

Disability Insurance.—The disability insurance program has grown in caseload size and cost well beyond what was originally estimated. In part, the growth of the program reflects legislative changes which have expanded coverage and benefits. Much of the growth, however, must be ascribed to other causes such as *de facto* liberalization as a result of court decisions, weaknesses in administration, and greater than anticipated incentives to become or remain dependent upon benefits.

At the time the disability insurance program was enacted in 1956, its long-range cost was estimated to be 0.42 percent of taxable payroll. The "high cost" short-range estimate indicated that benefit outlays would reach a level of $1.3 billion by 1975. Under the 1979 social security trustees' report, the long-range cost of the program is now estimated to be 1.92 percent of taxable payroll. Benefit payments for 1975 totalled $7.6 billion, and benefit payments for 1979 are expected to total approximately $14 billion. (Note: at present payroll levels, 1 percent of taxable payroll is roughly $10 billion.)

Table 4 shows the changes in the estimated costs of the program over the years since it was first enacted. Many of the cost increases in the earlier years are attributable to changes in the law, broadening eligibility. The last major change of this type was enacted in 1967. The reductions in long-range costs after 1977 are partly a result of the new benefit computation for all social security benefits adopted in the 1977 amendments and of the increase in the tax base under those amendments. (An increased tax base has the effect of "lowering" the cost of the program as a percent of taxable payroll even if the actual costs of the program in absolute terms remain unchanged.) The 1978 reduction in long-range costs reflects an actuarial assumption based on a somewhat lower award rate in the past year or two.

There are now about 2.9 million disabled workers receiving DI benefits, increased from 1.3 million in 1969. This represents a 123 percent increase over a 10-year period during which there was no major legislative expansion of eligibility requirements. Currently, in addition to the disabled workers who are receiving benefits, there are benefits being paid to about 2 million dependents of disabled workers. (See table 3 for the number of benefits by type of beneficiary in each State.)

TABLE 3.—OASDHI CASH BENEFITS

[Number of monthly benefits in current-payment status, by type of beneficiary and by State, at end of June 1978]

State [1]	Total	Retired workers [2]	Disabled workers [3]	Wives and husbands [4] of—		Children [5] of—			Widowed mothers and fathers [6]	Widows and widowers [7]	Parents [7]	Persons with special age-72 benefits
				Retired workers	Disabled workers	Retired workers	Deceased workers	Disabled workers				
Total	34,067,797	17,923,874	2,857,843	2,941,839	491,352	662,080	2,799,492	1,511,543	569,192	4,147,505	17,742	145,335
Alabama	615,337	274,014	58,610	56,372	11,818	17,659	64,874	34,148	13,920	81,862	621	1,439
Alaska	18,973	7,953	1,460	993	273	852	4,442	1,054	709	1,197	12	18
Arizona	375,863	205,227	31,718	34,566	5,853	7,655	31,573	16,820	6,115	35,153	176	1,007
Arkansas	427,365	203,305	44,164	42,801	9,050	10,761	31,575	26,131	6,407	51,154	239	1,778
California	3,065,496	1,676,896	291,546	247,490	40,284	56,856	234,812	131,659	44,108	326,720	938	14,187
Colorado	314,998	166,690	24,174	30,118	4,121	5,141	28,189	12,452	5,375	37,101	82	1,555
Connecticut	455,115	273,258	30,771	32,221	4,014	6,487	32,473	12,942	6,616	53,556	167	2,610
Delaware	81,633	43,585	6,739	5,878	976	1,407	7,947	3,363	1,570	9,845	28	295
District of Columbia	89,042	48,408	8,055	4,805	613	1,667	10,433	2,830	1,881	9,721	59	569
Florida	1,859,607	1,105,027	139,670	173,156	22,313	26,887	107,859	61,862	22,077	194,028	573	6,155
Georgia	734,200	333,080	86,296	50,551	14,425	14,782	82,945	47,340	16,575	84,546	592	3,058
Hawaii	102,953	54,853	6,693	9,208	1,057	7,376	9,257	3,609	1,941	8,435	74	450
Idaho	122,864	67,814	9,030	12,164	1,568	2,385	10,021	4,642	1,735	13,021	26	458
Illinois	1,594,772	882,122	110,622	129,298	15,499	25,355	139,771	51,955	26,935	204,439	794	7,981
Indiana	793,795	426,509	61,593	67,373	10,131	12,870	65,291	32,869	12,678	101,339	283	2,859
Iowa	482,046	269,754	27,744	53,951	4,500	7,066	30,083	12,689	5,768	66,672	95	3,724
Kansas	366,151	209,108	20,521	38,963	3,080	5,382	23,401	9,496	4,217	49,139	87	2,757
Kentucky	582,470	262,455	55,570	58,591	14,035	13,226	50,362	37,302	11,297	77,431	363	1,838
Louisiana	568,944	227,680	59,362	53,274	14,464	13,880	62,845	43,534	13,841	77,027	325	2,712
Maine	190,877	105,734	14,885	15,715	2,876	3,213	13,495	8,638	2,755	22,710	74	732
Maryland	502,251	268,189	39,037	37,204	5,235	8,335	50,496	16,751	9,892	64,085	289	2,738
Massachusetts	894,721	528,358	61,561	63,847	9,467	12,044	63,335	28,620	13,700	109,162	320	4,287
Michigan	1,316,999	667,692	115,690	114,284	19,429	23,699	117,797	61,222	23,187	169,098	556	4,345
Minnesota	599,767	340,603	32,643	63,557	5,343	11,831	41,844	16,289	7,895	75,429	131	4,202
Mississippi	417,726	181,735	43,425	35,832	8,631	14,472	45,368	28,885	9,002	48,832	364	1,180
Missouri	840,158	457,278	65,438	76,923	11,152	13,909	60,773	33,639	11,918	105,298	259	3,571
Montana	114,225	60,251	8,611	10,767	1,540	2,363	10,278	4,650	1,788	13,317	41	619
Nebraska	248,112	142,411	12,859	27,299	2,008	3,520	16,462	6,147	2,964	32,359	57	2,026
Nevada	80,587	44,780	7,971	5,098	1,111	1,307	8,114	3,424	1,493	7,051	18	220
New Hampshire	133,503	81,090	8,989	9,428	1,411	1,913	9,528	4,427	1,882	14,117	26	692

New Jersey	1,116,429	627,594	93,755	78,410	13,376	15,344	85,425	42,111	18,497	137,070	558	4,289
New Mexico	162,882	73,812	14,447	15,353	3,852	4,818	18,611	11,435	3,995	15,852	149	558
New York	2,837,044	1,601,350	236,823	198,014	35,983	46,717	210,467	114,856	43,061	335,158	1,338	13,277
North Carolina	846,938	415,521	87,409	62,786	13,831	16,444	87,935	41,897	17,737	99,671	682	3,025
North Dakota	101,517	54,513	4,969	13,089	973	2,471	7,349	2,679	1,380	13,402	30	662
Ohio	1,580,052	793,524	134,786	146,346	23,286	25,074	130,707	70,437	26,771	222,000	591	6,530
Oklahoma	469,551	241,873	39,869	48,363	7,184	7,823	33,242	21,079	6,486	61,554	193	1,885
Oregon	389,256	227,210	30,931	33,187	4,830	6,228	25,963	13,696	4,591	41,054	84	1,482
Pennsylvania	1,989,240	1,070,588	160,558	174,289	25,502	27,480	140,850	66,767	31,690	281,770	1,038	8,708
Rhode Island	161,951	97,091	13,417	9,966	1,844	1,954	10,394	5,634	2,242	18,559	57	793
South Carolina	422,000	192,561	48,465	26,739	7,934	8,724	52,560	25,054	11,057	47,034	388	1,484
South Dakota	116,565	63,407	6,338	13,657	1,145	2,336	8,473	3,133	1,576	15,596	20	884
Tennessee	705,111	334,846	71,994	64,274	13,399	15,229	61,416	38,972	13,002	88,461	564	2,954
Texas	1,739,311	848,716	134,944	177,315	26,361	39,727	165,883	79,416	34,676	224,657	1,051	6,565
Utah	138,238	75,558	8,924	13,545	1,626	2,762	13,353	4,904	2,306	14,841	29	390
Vermont	77,860	42,723	6,066	6,542	1,127	1,283	5,716	3,385	1,169	9,416	29	404
Virginia	680,538	335,210	63,051	54,531	11,611	13,149	66,608	33,115	13,675	85,646	514	3,428
Washington	547,495	312,086	42,665	46,898	6,399	9,118	39,991	19,718	6,669	61,383	130	2,438
West Virginia	354,773	146,469	39,348	35,212	10,495	8,748	28,559	25,126	6,933	52,349	286	1,248
Wisconsin	740,366	419,655	47,866	70,331	7,870	13,330	51,121	24,814	9,609	91,589	167	4,014
Wyoming	47,410	26,629	2,798	4,333	411	842	4,545	1,348	775	5,484	18	227
Other areas												
American Samoa	2,036	349	100	184	56	391	545	228	127	51	5	0
Guam	2,654	679	160	221	46	248	825	191	182	97	5	0
Puerto Rico	536,205	164,746	73,426	48,757	22,976	38,898	49,468	93,705	10,943	32,229	1,037	20
Virgin Islands	6,851	2,990	433	532	77	520	1,280	364	232	409	14	0
Abroad	304,974	138,315	8,854	37,228	2,881	18,122	32,543	8,029	9,569	48,329	1,096	8

[1] Beneficiary by State of residence.
[2] Aged 62 and over.
[3] Under age 65.
[4] Includes wife beneficiaries aged 62 and over, nondivorced and divorced, and those under age 65 with entitled children in their care.
[5] Includes disabled persons aged 18 and over whose disability began before age 22 and entitled full-time students aged 18 to 21.
[6] Includes surviving divorced mothers and fathers with entitled children in their care.
[7] Aged 60 and over for widows, widowers, and surviving divorced wives, and aged 62 and over for parents. Also includes disabled widows, widowers, and surviving divorced wives aged 50 to 59.

Source: Social Security Bulletin, March 1979/vol. 42, No. 3.

TABLE 4.—GROWTH IN ESTIMATED COST OF DI PROGRAM

Year of estimate	Estimated cost		
	Long-range (as percent of payroll)	Short-range [1] (millions)	1980 projection (millions)
1956	0.42	$379	([2])
1958	.49	492	$1,380
1960	.56	864	1,550
1965	.67	1,827	2,211
1967	.95	2,068	3,351
1973	1.54	6,295	NA
1975	2.97	9,640	NA
1976	3.51	12,715	16,197
1977	3.68	14,822	16,817
1978	2.26	16,532	16,532
1979	1.92	17,212	15,600

[1] Short-range represents intermediate estimate of cost for second year after the year of estimate.

[2] No 1980 projection made; 1975 costs were projected to be $949,000,000.

NA—not available.

Source: Estimates prepared by the Office of the Actuary of the Social Security Administration in connection with legislation (1956–67) or as a part of annual trustees' reports (1973–79). Short-range costs shown in this table are benefit payments only.

The following table shows the number of awards by calendar year over the last decade. The number of disabled worker awards in the last 5 years has been about 2.7 million. Through the 1968–78 period the annual number of awards rose from an average of about 340,000 for 1968–70 to a peak of 592,000 in 1975. Following 1975, there was no longer a steady upward trend. Instead, the number of awards in 1976–77 was about 5 percent lower than in 1975. The 1978 decrease was even sharper, to a level about 23 percent below that of 1975.

TABLE 5.—DISABLED-WORKER BENEFIT AWARDS, 1968–78

	Number of awards	Awards per 1,000 insured workers
Calendar year:		
1968	323,514	4.8
1969	344,741	4.9
1970	350,384	4.8
1971	415,897	5.6
1972	456,562	6.0
1973	491,955	6.3
1974	535,977	6.7
1975	592,049	7.1
1976	551,740	6.5
1977	569,035	6.6
1978	457,451	5.2

Source: Prepared by Robert J. Myers, consultant to the Committee on Finance

Following the rapid increases in the number of applications for title II worker disability in the first half of the 1970's, there has been a distinct leveling off, even a decrease, in the number applying. The decrease, however, has not been as significant as the decrease in the number of awards. In the same period referred to above, 1975–78, title II disabled worker applications decreased by about 8 percent. The most recent statistics available for 1979, however, show that for the first 5 months of this year the number of applications has been slightly higher than for the corresponding period in 1978.

TABLE 6.—TITLE II DISABLED WORKER APPLICATIONS RECEIVED IN DISTRICT OFFICES, 1970 THROUGH 1978 [1]

[In thousands]

1970	868.7
1971	943.0
1972	947.5
1973	1,067.5
1974	1,331.2
1975	1,284.7
1976	1,256.3
1977	1,235.5
1978	1,184.8
January–May 1978	485.6
January–May 1979	489.0

[1] Calendar year.

Source: Social Security Administration.

Supplemental security income.—When the Congress was considering the enactment of the supplemental security income legislation in 1972, the estimates it had before it did not accurately portray the future nature of the caseload and costs of the program. Nor was there any testimony that indicated how the implementation of the program might affect the administrative capacity of the Social Security Administration, and, most particularly, the capacity of the disability adjudication structure.

Most of the discussion leading up to congressional passage of SSI centered on serving the aged population. Congress accepted estimates of the Administration indicating that the SSI population would continue to be composed largely of the aged. The Administration estimated that, by the end of fiscal year 1975, there would be almost two aged beneficiaries for every disabled beneficiary. While it was foreseen that the number of persons receiving disability benefits would grow under the new program, it was expected that the number of aged beneficiaries would grow even more.

In calendar years 1974 and 1975, the first 2 years of the SSI program, the disability caseload increased substantially, from about 1.3 million individuals in January 1974 to about 2 million 2 years later. Since that time the actual number of persons receiving payments on the basis of disability has appeared to be stabilizing.

However, the SSI program is nonetheless becoming a program that is increasingly dominated by the disability aspects. Out of the 4.2 million persons receiving SSI benefits, 2.2 million came onto the rolls as the result of being determined to be disabled. (319,000 of these individuals have now reached age 65, but are still listed by SSA as being disabled. See table 7 for a State-by-State listing of recipients.)

Perhaps most indicative of the predominance of disability issues in the program are the figures showing numbers of applicants for benefits. About 80 percent of all applications are now being made on the basis of disability. (See table 8.) This has been the case since 1976. In addition, about two-thirds of all awards made in recent years have been made to persons determined to be disabled. (See table 9.) Program expenditures also reflect the numbers and relatively higher average SSI payments of the disabled SSI population. About 60 percent of all SSI expenditures now go to persons who have been determined to be disabled. (See table 10.)

At the present time, more than 1 million, or nearly half of all disability applications received in social security district offices, are applications for SSI benefits. In 1974, the first full year of the SSI program, there were fewer than 800,000 applications, compared with

1.3 million title II applications. Over the 5½ years of the SSI program, SSI disability applications have increased steadily as a percentage of all disability applications. Persons working with the disability programs generally are agreed that the establishment of the SSI disability program, acting as a kind of out-reach mechanism, had the result of increasing the number of applications for title II disability.

TABLE 7.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]

State	Total	Aged	Blind	Disabled
Total[1]	4,229,782	1,956,318	77,475	2 195,989
Alabama[2]	140,182	84,301	1,914	53,967
Alaska[2]	3,205	1,278	68	1,859
Arizona[2]	29,264	12,318	530	16,416
Arkansas	82,489	47,879	1,574	33,036
California	701,724	319,032	17,284	365,408
Colorado[2]	32,927	15,322	362	17,243
Connecticut[2]	23,496	7,991	313	15,192
Delaware	7,195	2,753	185	4,257
District of Columbia	14,908	4,293	197	10,418
Florida	169,271	86,696	2,579	79,996
Georgia	158,406	77,482	2,943	77,981
Hawaii	10,147	5,189	146	4,812
Idaho[2]	7,601	2,968	93	4,540
Illinois[2]	125,997	38,501	1,697	85,799
Indiana[2]	41,579	16,672	1,068	23,839
Iowa	26,557	12,250	1,081	13,226
Kansas	21,621	9,161	322	12,138
Kentucky[2]	95,667	46,909	2,034	46,724
Louisiana	143,097	73,544	2,182	67,371
Maine	22,782	10,921	286	11,575
Maryland	48,599	17,046	574	30,979
Massachusetts	131,641	73,735	4,977	52,929
Michigan	118,214	42,397	1,729	74,088
Minnesota[2]	34,191	14,479	644	19,068
Mississippi	115,947	67,313	1,828	46,806
Missouri[2]	89,169	46,509	1,502	41,158
Montana	7,340	2,679	140	4,521
Nebraska[2]	14,144	6,212	243	7,689
Nevada	6,444	3,518	406	2,520
New Hampshire[2]	5,455	2,319	132	3,004

TABLE 7.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]—Continued

State	Total	Aged	Blind	Disabled
New Jersey	84,617	33,452	1,021	50,144
New Mexico [2]	25,717	11,104	441	14,172
New York	377,901	147,302	3,970	226,629
North Carolina [2]	143,548	68,300	3,330	71,918
North Dakota [2]	6,862	3,701	65	3,096
Ohio	123,832	40,268	2,313	81,251
Oklahoma [2]	72,657	39,161	1,064	32,432
Oregon [2]	23,016	8,113	536	14,367
Pennsylvania	170,207	63,345	3,620	103,242
Rhode Island	15,506	6,361	184	8,961
South Carolina [2]	84,287	40,934	1,884	41,469
South Dakota	8,377	4,240	132	4,005
Tennessee	133,899	66,807	1,876	65,216
Texas [3]	269,678	160,271	4,126	105,281
Utah [3]	8,084	2,651	162	5,271
Vermont	9,083	3,947	120	5,016
Virginia [2]	80,461	37,604	1,419	41,438
Washington	48,541	16,992	546	31,003
West Virginia [2]	42,703	15,802	626	26,275
Wisconsin	68,883	32,987	958	34,938
Wyoming [2]	2,023	928	26	1,069
Unknown	57	17	.....	40
Other areas:				
Northern Mariana Islands [3]	584	364	23	197

[1] Includes persons with Federal SSI payments and/or federally administered State supplementation, unless otherwise indicated.

[2] Data for Federal SSI payments only. State has State-administered supplementation.

[3] Data for Federal SSI payments only; State supplementary payments not made.

Source: Social Security Administration.

TABLE 8.—SSI APPLICATIONS, BY CATEGORY, 1974–78

Calendar year	Total	Aged	Blind and disabled	Blind and disabled as a percent of total
1974	2,296,400	926,900	1,369,500	60
1975	1,498,400	377,400	1,121,000	75
1976	1,258,100	254,400	1,003,700	80
1977	1,298,400	258,500	1,039,900	80
1978	1,304,300	257,900	1,046,400	80

Source: Data provided by the Social Security Administration.

TABLE 9.—NUMBER OF PERSONS INITIALLY AWARDED SSI PAYMENTS [1]

Year	Total SSI awards	Disabled	Disability as percent of total
1974	890,768	387,007	43
1975	702,147	436,490	62
1976	542,355	365,822	67
1977	557,570	362,067	65
1978	532,447	348,848	66

[1] Federally administered payments.

Source: Data provided by the Social Security Administration.

TABLE 10.—SSI BENEFIT EXPENDITURES [1]

Calendar year	Total	Disability [2]	Disability as percent of total
1974	$5,096,813	$2,556,988	50
1975	5,716,072	3,072,317	54
1976	5,900,215	3,345,778	57
1977	6,134,085	3,628,060	59
1978	6,371,638	3,881,531	61

[1] Federally administered payments.

[2] SSI program record-keeping maintains individuals on the rolls as disabled after they have reached age 65. In 1978 about $300,000 was paid to disabled individuals in this category.

Source: Data provided by the Social Security Administration.

Causes for Growth

As the preceding discussion shows, the experts have had very great difficulty estimating how the disability programs would develop, and they have frequently been wrong. They have found it equally difficult to pinpoint the reasons for growth in the disability programs, partic-

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ularly in the disability insurance program. The growth that took place, primarily in the first half of the 1970's, would seem to have leveled off. But there is still no consensus on exactly why it happened, the weight to be given to various factors, or even on whether the period of rapid growth is over.

1. INCREASES IN DISABILITY INCIDENCE RATES

The table below shows standardized disability incidence rates under the disability insurance program for the period 1968–75. As can be seen, the rates show an almost steadily increasing trend from 1968, although appearing to level off in 1973–75.

TABLE 11.—STANDARDIZED DISABILITY INCIDENCE RATES UNDER DI, 1968–75

[Rates per 1,000 insured]

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, appearing in a committee print of the Subcommittee on Social Security of the House Ways and Means Committee on "Actuarial Condition of Disability Insurance, 1978," Feb. 1, 1979, p. 7).

	Standardized rate [1]	Percentage increase over 1968
Year:		
1968	4.46	.....
1969	4.29	−4
1970	4.77	+7
1971	5.25	+18
1972	6.00	+35
1973	7.20	+61
1974	7.14	+60
1975	6.85	+54

[1] Overall incidence rate based on age-sex distribution of persons insured for disability benefits as of Jan. 1, 1975 (as shown in table 50, "Statistical Supplement, Social Security Bulletin," 1975); and on incidence rates by age and sex as shown in "Actuarial Study No. 74" and "Actuarial Study No. 75," Social Security Administration.

Social Security Administration actuaries attempted to assess the reasons for the increase in incidence rates in a report published in January 1977, "Experience of Disabled-Worker Benefits under OASDI, 1965–74." Their analysis points to a variety of factors, including increases in benefit levels, high unemployment rates, changes in attitude of the population, and administrative factors. These factors, as analyzed by the actuaries, are worth considering in some detail.

Starting off their discussion, the actuaries observe:

> We believe that part of the recent increase in incidence rates is due to the rapid rise in benefit levels since 1970, particularly when measured in terms of pre-disability earnings. From December 1969 to December 1975 there were general benefit increases amounting to 82 percent. Also, effective in 1973, medicare benefits became available to disabled worker

> beneficiaries who have been entitled for at least 2 years. We also believe the short computation period for the young workers, the weighting of the benefit formula for the low income workers, and the additional benefits payable when the worker has dependents can provide especially attractive benefits to beneficiaries in these categories. It is possible under the present formula for these beneficiaries to receive more in disability benefits than was included in their take-home pay while they were working. Benefits this high become an incentive to file a claim for disability benefits, and to pursue the claim through the appellate procedures. (p. 5)

The actuaries believe that another factor in the increase in incidence rates is the high unemployment rate that the country experienced after 1970. They argue that physically impaired individuals are more likely to apply for benefits if they lose their jobs in a recession than during an economic expansion when they can retain their jobs.

According to the actuaries, another factor influencing increases in incidence rates is changes in attitude. Elaborating on this theme, they state that "It is possible that the impaired lives of today do not feel the same social pressure to remain productive as did their counterparts as recently as the late 1960's." The actuaries quote John Miller, a consulting actuary and expert in the field of disability insurance, who commented in a report to the House Social Security Subcommittee on the subjective nature of the state of disability:

> The underlying problem in providing and administering any plan of disability insurance is the extreme subjectivity of the state of disability. This characteristic could be discussed at length and illustrated with an almost endless array of statistics but it can best be visualized by comparing a Helen Keller or a Robert Louis Stevenson with any typical example of the multitude of ambulatory persons now drawing disability benefits who could be gainfully employed if (a) the necessary motivation existed, and (b) an employment opportunity within their present or potential capability were present or made available. Thus the problem is not simply one of medical diagnosis. The will to work, the economic climate and the "rehabilitation environment" outweigh the medical condition or problem in many, if not in most, cases.
>
> (Reports of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance, to the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, p. 24.)

The authors were unwilling to attribute the increase in disability incidence rates to these factors to any specific degree, and observed only that they were responsible for "a large part" of the increases. Beyond that they state: "We feel that some administrative factors must have also played an important part in the recent increases, but we cannot offer a definite proof to that effect."

One administrative factor mentioned is the multi-step appeals process, which enables the claimant to pursue his case to what the actuaries term as the "weak link" in the hierarchy of disability determination. Under the multi-step appeals process, a claimant who has been denied

benefits may request first a reconsideration, then a hearing before an Administrative Law Judge, appeal his hearing denial to the Appeals Council, and, if his case is still denied, take his claim to the U.S. district court. The actuaries claim that by the very nature of the claims process, the cases which progress through the appeals process are likely to be borderline cases where vocational factors play an important role in the determination of disability. The definition of disability—"inability to engage in any substantial gainful activity by reason of a medically determinable impairment"—involves two variables: (1) impairment and (2) vocational factors. An emphasis on vocational factors, they say, citing William Roemmich, former Chief Medical Director of the Bureau of Disability Insurance, can change the definition to "inability to engage in usual work by reason of age, education, and work experience providing any impairment is present." To the extent that vocational factors are given higher weight as a claim progresses through the appeals process, the chances of reversal of a former denial is increased.

The actuaries also cite the "massive nature" of the disability determination process as one of the administrative factors which may be responsible for the growth in rolls. There has been an enormous increase in the number of claims required to be processed by the system. In fiscal year 1969, the Social Security Administration took in over 700,000 claims for disability insurance benefits. By 1974 the number of DI claims per year had grown to 1.2 million. In addition, over 500,000 disability claims under the black lung program, which started during 1970, had been taken in. And the number of SSI disability claims being taken in approached another million. As the actuaries point out, all this was happening at a time when the administration was making a determined effort to hold down administrative costs.

During this period it would appear that there was an inevitable conflict within the administrative process between quality and quantity. The winner, it would appear, was quantity. The actuaries state:

> All of this put tremendous pressure on the disability adjudicators to move claims quickly. As a result the administration reduced their review procedures to a small sample, limited the continuing disability investigations on cases which were judged less likely to be terminated, and adopted certain expedients in the development and documentation in the claims process. Although all of these moves may have been necessary in order to avoid an unduly large backlog of disability claims, it is our opinion that they had an unfortunate effect on the cost of the program (p. 8).

A final factor given for the increase in the incidence rates is "the difficulty of maintaining a proper balance between sympathy for the claimant and respect for the trust funds in a large public system." The actuaries maintain that they do not mean that disability adjudicators consciously circumvent the law in order to benefit an

unfortunate claimant. They mean rather that in a program designed specifically to help people, whose operations are an open concern to millions of individuals, and where any one decision has an insignificant effect on the overall cost of the program, there is a natural tendency to find in favor of the claimant in close decisions. "This tendency is likely to result in a small amount of growth in disability incidence rates each year, such as that experienced under the DI program prior to 1970, but it can become highly significant during long periods of difficult national economic conditions." (p. 8.)

Although the above discussion of the factors in increased incidence rates was aimed specifically at the disability insurance program, it would seem to be applicable also to the SSI program. The same definition and the same administrative procedures are used in both programs. And it is logical to assume that the economic, human, and administrative factors which affect growth would be present in both programs.

Decrease in Terminations

At the same time that there have been increases in disability incidence rates, there have also been decreases in disability termination rates. As the table below shows, death termination rates have decreased gradually over the years from about 80 per thousand in 1968 to about 50 per thousand in 1977.

TABLE 12.—DISABILITY TERMINATION RATES UNDER DI, 1968–77

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, cited earlier, (p. 7)).

	Number of terminations (thousands)		Termination rates [1]	
	Death	Recovery	Death	Recovery
Year:				
1968	99.9	37.7	79	30
1969	108.8	38.1	80	28
1970	105.8	40.8	72	28
1971	109.9	43.0	69	27
1972	108.7	39.4	62	22
1973	125.6	36.7	65	19
1974	135.1	[2] 38.0	63	18
1975	139.8	[2] 39.0	59	16
1976	137.1	[2] 40.0	53	15
1977	139.4	[2] 60.0	50	22

[1] Rate per 1,000 average beneficiaries on the roll.
[2] Estimated.

The actuarial study referred to earlier cites several reasons for the decline in the death termination rate: legislative changes which brought in younger workers, maturation of the program, the liberalized definition of disability in the 1965 amendments from permanent disability to one that is expected to last at least 12 months, and

improved medical procedures that have also contributed to the decline in death rates in the general population.

However, the actuaries state that although all of these reasons contributed to the decline, "it is doubtful that they can fully account for the rather rapid decrease that has been observed." Rather, they say, they believe that healthier applicants are being awarded disability benefits and consequently there is a tendency for the overall mortality rates to decline:

> The magnitude of the increase in the incidence rates is so substantial, that it is likely to have had a significant effect on the characteristics of applicants that are being awarded disability benefits. It is our belief that progressively healthier individuals have been granted benefits, and that progressively healthier individuals have been allowed to stay on the rolls (p. 12).

Examining the other significant factor in termination rates, recovery rates, the actuaries come to essentially the same conclusion:

> The rapid decrease in the gross recovery rate since 1967 cannot be explained in terms of legislated changes since there have not been any major changes in the law since then. As with the decline in the gross death rate, and probably even more so, it is believed that progressively healthier beneficiaries are being allower to continue receiving benefits without being terminated (p. 12).

The actuaries also cite administrative changes as a possible reason for a decline in recoveries due to a determination of improvements in the beneficiary's physical condition. Pinpointing "administrative expediency," they note that the high workload pressures of past years forced SSA to curtail some of its policing activities. The Social Security Administration made continuing disability investigations of about 10 percent of the DI beneficiaries on the rolls in years prior to 1970. During fiscal years 1971 to 1974, when the administrative crunch of the black lung and SSI programs were at their peak, there was an investigation of just over 4 percent of the DI beneficiaries in a year.

A final factor which is mentioned in the actuaries analysis is high benefit levels, or high replacement ratios. Defining the replacement ratio as the annual amount of benefits received by the disabled worker and his dependents divided by his after tax earnings in the year before onset of disability, the actuaries claim that the average replacement ratio of disabled workers with median earnings has increased from about 60 percent in 1967 to over 90 percent in 1976. During this period the gross recovery rate decreased to only one-half of what it was in 1967.

More recently, the Social Security Administration actuaries commented on how replacement ratios affect the recovery rate by noting:

> High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial

work period provision has been largely negated by the prospect of losing the high benefits. ("Experience of Disabled Workers Benefits Under OASDI, 1972–76," actuarial study No. 75, June 1978.)

A study of disabled workers who were awarded benefits in 1972 which appeared in the April 1979 issue of the Social Security Bulletin found that, among certain workers with conditions most subject to medical improvements, those with high replacement rates were less likely to leave the rolls. More specifically, the study found that among younger workers, a relationship of benefits to recovery according to earnings-replacement level was apparent. Twenty percent of those under age 40 with higher replacement rates recovered from their disabilities. This percentage increased to 32 when the replacement rate was less than 75 percent. A similar effect was found for those with dependent children and for those with injuries such as fractures and disc displacements.

Current Status of the Programs

Recent statistics seem to indicate that the social security disability programs are leveling off. Title II disabled worker applications have been decreasing on an annual basis since 1974. SSI disability applications have been increasing, but at a rate significantly lower than in earlier years. As mentioned earlier, for the first 5 months of 1979 the number of title II disabled worker applications was virtually the same as for the same period in the previous year. SSI disability applications were up by 7.5 percent in that same period of time.

Application statistics, however, are perhaps not as significant as other program statistics—those telling how many are coming on the rolls and those telling how many are going off. Between 1975 and 1978 the number of benefits awarded to disabled workers dropped from 592,049 in 1975 to 457,451 in 1978, a 23 percent decrease. In the first 5 months of 1979 this trend continued, with awards in that period about 13 percent lower than for the same 5-month period in 1978. SSI awards to the disabled have also been declining, from a high of 436,490 in 1975, to 348,848 in 1978, a decline of about 20 percent. Statistics show that this trend is continuing into 1979. SSI awards on the basis of disability for the first 5 months of 1979 were about 7 percent below those of the previous year.

Program statistics also show a considerable increase in State agency denial rates. In fiscal year 1973, 47 percent of all State agency initial decisions relating to title II disabled workers were denials. The denial rate in 1978 was 60 percent. State agency initial decisions on SSI applications resulted in a denial rate of about 58 percent in 1977, increasing to 64 percent in 1978. For the last quarter in 1978 the denial rate reached nearly 67 percent.

In addition, available statistics show that the number of cessations as opposed to continuances in determinations of continuing disability for disabled workers have greatly increased as follows:

TABLE 13.—TITLE II DISABLED WORKERS, CESSATIONS AND CONTINUATIONS, 1975–78

Calendar year	Cessations		Continuations		Total cases (continuations and cessations)
	Number	Percent	Number	Percent	
1975.....	37,200	31.2	82,000	68.8	119,200
1976.....	37,600	33.5	74,700	66.5	112,300
1977.....	58,200	46.0	68,400	54.0	126,600
1978.....	61,400	50.8	59,400	49.2	120,800

Experts in the field of disability are reluctant to draw many conclusions from these statistics. There is a feeling of unease about their significance, particularly over the long term. The 1979 trustees' report shows an improved forecast for the DI trust fund over the one made last year. This is caused by projections of lower rates of enrollment than were made previously and were based on the actual slowdown in new awards since the last quarter of 1977 (although enrollment is still projected to rise in the future under all three sets of economic assumptions in the report—optimistic, intermediate, and pessimistic). The trustees add their own note of caution, however, observing that "this reduction in the incidence of disability was not anticipated and its causes are not very clear, so it is uncertain whether the trend will continue in the future."

Problems Addressed by the Committee Bill

The disability programs administered by the Social Security Administration have been the subject of intensive study and review in recent years. The Congress and the Administration have both participated in this process. In summary, problems which have been identified include unpredicted and extraordinary growth in costs and caseloads, disincentives for beneficiaries to return to work, and inadequate and sometimes inequitable administrative procedures.

The committee bill has as its primary purpose the strengthening of the integrity of the disability programs by placing a limit on disability insurance benefits in those cases where benefits tend to exceed the net predisability earnings on which the benefits are based; providing positive incentives, as well as removing disincentives, for SSI and DI beneficiaries to return to work; and improving accountability and uniformity in the administration of the programs.

The provisions designed to accomplish this purpose are described in detail below.

B. Provisions Relating to Disability Benefits Under OASDI Program

LIMIT ON FAMILY DISABILITY INSURANCE BENEFITS

(Section 101 of the Bill)

Present law.—The social security disability insurance program determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average earnings the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount may be increased if the worker has a dependent spouse or children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

The benefits payable to disabled workers cover a broad range from a minimum of $122 monthly to a maximum (for a worker who became disabled in 1978) of about $730. The average benefit for all disabled workers in June 1979 was $320 per month. The average total family payment for disabled workers with dependents was $639 per month.

The benefit amounts payable under the social security disability insurance program have increased very greatly over the past decade. In part, these increases simply reflect the percentage increases in social security benefit levels resulting from legislation and from the automatic cost-of-living increase provisions instituted by the 1972 amendments. Wage growth in the economy also contributes to increased benefits since social security benefit amounts are determined by applying the benefit formula to an individual's average wages under social security. The impact of wage growth over the past several years has tended to be reflected in disability benefit increases more than in retirement benefit increases. The rate of growth in disability benefits as compared to retirement benefits is shown in the table below.

TABLE 14.—INCREASES IN BENEFITS AWARDED TO RETIRED AND DISABLED WORKERS, 1969 TO 1978

Year	Retirement awards			Disability awards		
		Percentage			Percentage	
	Average amount	Over 1969	Over prior year	Average amount	Over 1969	Over prior year
1969	$106			$118		
1970	124	17	17	140	19	19
1971	138	30	11	157	33	12
1972 [1]	169	59	22	193	64	23
1973	170	60	1	197	67	2
1974 [2]	192	81	13	217	84	10
1975 [2]	214	102	11	243	106	12
1976 [2]	234	121	9	271	130	12
1977 [2]	255	141	9	295	150	9
1978 [2]	278	162	9	328	178	11

[1] September–December average.
[2] June–December average.

Source: Social Security Bulletin.

The average disability award has increased from $118 to $328 over the 10-year period 1969–78. This is a 178-percent increase. During the same period of time, the cost of living (as measured by the Consumer Price Index) rose by about 80 percent. A part of this rapid growth in disability benefit levels is attributable to the over-indexing aspects of the automatic increase provisions enacted in 1972. Under the revised benefit formula adopted in the 1977 Amendments, initial benefit levels will continue to increase at a rate in excess of the inflation rate but to a lesser extent than under the prior law.

One of the reasons which has been advanced to explain the rapid growth in the disability program in recent years is that the increased benefit levels have made it more likely that any given individual will become and remain a beneficiary. When benefit levels were very low, an individual with a disability might find it economically advantageous to continue working even though his impairment limited his earnings to quite low levels. Similarly, an individual who became a recipient had a potential for significantly increasing his family income by participating in a program of rehabilitation. The higher benefit levels now prevailing in the program substantially reduce the extent to which a disabled person would find it advantageous to remain in or return to employment.

While it is possible to draw a general conclusion that increased benefit levels appear to have contributed to the rapid growth of the program which occurred in the early and mid-1970's, there is no simple rule of thumb for determining the optimum benefit level which balances the desire for reasonable adequacy against the desire to maintain a reasonable incentive for continued employment or rehabilitation. Clearly, this line falls somewhere below a level of 100 percent of prior earnings, since disability benefits are tax free and are also free of various other costs an individual would probably incur in working. The availability of medicare for those who have been on the disability rolls for at least two years is also a factor. Considerable analysis has been conducted of the relationship between the initial benefit level and prior earnings. This analysis has shown that there are numerous instances where disability insurance benefits come close to or even exceed the worker's prior earnings.

In transmitting the Administration's proposed changes to the DI program in March of this year, the Secretary of HEW pointed out that 6 percent of DI beneficiaries receive more through their DI benefits alone than their net earnings while working, and that 16 percent have benefits which exceed 80 percent of their prior net earnings. The Secretary's analysis was based on comparisons of benefit awards to the workers' highest 5 years of indexed earnings. Using the high-five years of indexed earnings may tend to understate the prevalence of high replacement rates.

The following table, provided by the Social Security Administration's actuaries, which is based on a sample of approximately 10,000 DI awards made in 1976, shows the replacement rates resulting from those awards under two illustrative approaches of measuring replacement rates. The first approach encompasses the period of earnings used to compute average indexed monthly earnings (AIME) as the base to which benefits are compared. The second approach uses the highest 5 years of indexed earnings during the 10-year period immediately preceding the onset of the disabling condition. These replacement rates represent the percent of gross earnings which the DI benefits replace. Replacement rates would be even higher when "net earnings" are considered.

TABLE 15.—DI REPLACEMENT RATES COMPUTED FROM 2 DIFFERENT MEASURES OF DR DISABILITY EARNINGS

Replacement rates [2] (1979 PIA) levels	Awards at each level of earnings replacement [1]			
	Using AIME		Using high 5 yr of indexed earnings in last 10	
	Number of cases	Percent of total	Number of cases	Percent of total
Under 30 percent	0	0	268	3
30 to 39 percent	79	1	2,930	31
40 to 49 percent	3,669	38	2,168	23
50 to 59 percent	1,456	15	1,184	12
60 to 69 percent	947	10	1,353	14
70 to 79 percent	1,215	13	771	8
80 to 89 percent	1,477	15	526	5
90 to 99 percent	181	2	148	2
100 percent and over	561	6	237	2
Total sample	9,585	100	9,585	100
Average replacement rate (percent)	58		49	

[1] These awards include both individual and family benefits where applicable. The actual awards were made before a "decoupled" system was put into effect. However, the awards were recomputed for sample purposes as if a decoupled system existed to give some sense of the longer-range direction of DI replacement rates.

[2] Represents replacement of gross earnings.

Both approaches to measuring replacement—i.e., either long or recent periods of a worker's earnings history—show that there are a substantial number of DI awards which by themselves result in replacement rates in excess of predisability earnings. Using 80 percent of gross predisability earnings as an approximation of predisability disposable earnings, about 23 percent of the awards in the sample were above that level using AIME as the base period for measurement, and approximately 10 percent of the awards in the sample were above that level using the high 5 years of indexed earnings during the 10-year period prior to the onset of disability as the base period for measurement. Approximately two-thirds of these cases involved the payment of dependents benefits in addition to those of the worker.

Actuarial studies in both the public and private sector have indicated that high replacement rates may constitute an incentive for impaired workers to attempt to join the benefit rolls, and a disincentive for disabled beneficiaries to attempt rehabilitation or return to the work force. An analysis by the social security actuaries has indicated:

> The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent. During this time the gross recovery rate decreased to only one-half of what it was in 1967. High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits.

("Experience of Disabled Workers Benefits Under OASDI, 1972–1976," actuarial study No. 75, June 1978.)

An actuarial consultant's report to the Committee on Ways and Means also concludes:

> * * * disability income dollars are, in general, much more valuable and have much more purchasing power than earned dollars. The DI benefits are fully tax exempt, as are insured benefits except for employer provided benefits in excess of $100 per week. For a worker with a spouse and a child, paying an average State income tax, 50 percent of salary in the form of disability benefits may well equal 65 percent or more of gross earnings after tax. In addition, the disabled individual is relieved of many expenses incidental to employment such as travel, lunches, special clothing, union or professional dues, and the like.
>
> It is a cause for deep concern that gross ratios of 0.600 or more apply to all young childless workers at median or lower salaries and to nearly all workers with a spouse and minor child for earnings up to the earnings base. In other words, all workers entitled to maximum family benefits are overinsured except older workers whose earnings approach the earnings base, middle-aged workers who earn not more than the earnings base, and young workers except those earning substantially more than the earnings base.
>
> Although these excessive replacement ratios have not been in effect long enough to have been fully reflected in the disability experience, overly liberal benefits may have played some part in the 47 percent increase, between 1968 and 1974, in the average rate of becoming disabled. Other than the indexing provisions, statutory changes during this period could have had no great effect. There is no evidence that the health of the nation has deteriorated. Rising unemployment has clearly been a factor, but the increasing attractiveness of the benefits must also be an important influence.

(U.S. Congress, House, Subcommittee on Social Security of the Committee on Ways and Means, *Report of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance*, 94th Congress, 2d Session, 1976.)

Testimony heard by the Finance Committee from a private actuary on behalf of a number of insurance companies includes similar observations. This actuary states the following about private disability insurance experience:

> * * * claim costs increase dramatically when replacement ratios exceed 70 percent of gross earnings, and are unsatisfactory when replacement ratios exceed 60 percent of gross earnings . . . Expected claims is the level of claim costs that is assumed in determining premiums, so a ratio of 100 percent would be what a company would expect to achieve when it sets rates . . . large exposures show claims at 87 percent of expected when the replacement ratio was 50 percent, 93 percent of expected when the replacement ratio was 50 percent to 60 percent, 106 percent when the replacement ratio was between 60 percent and 70 percent, and a jump in the ratio of actual to expected claims of 219 percent—more than double what the premium allowed—when the replacement ratio exceeded 70 percent of gross earnings.

(U.S. Congress, Senate, Committee on Finance, testimony of Gerald S. Parker on H.R. 3236, Social Security Disability Legislation, October 10, 1979.)

Analysis by the Congressional Budget Office further indicates that it is not correct to assume that a typical disabled worker family is dependent entirely or almost entirely on social security benefits. Disabled workers in families with children derive on average only about 40 percent of their total cash income from social security benefits. The analysis indicates that very few worker families have more than a 10 percent reduction in disposable income as a result of disability.

In summary, this analysis shows that the combined impact of high social security disability insurance replacement rates and substantial other sources of family income is to insulate disabled worker families, as a group, from any major reduction in income as a result of their disability.

Committee bill.—The committee is concerned about the impact these high benefit levels and replacement rates have had on the growth of the program, in that they may have caused both incentives for impaired workers to stop working and apply for benefits, and disincentives for DI beneficiaries to leave the benefit rolls. The Committee further is concerned about the inappropriateness of having situations where benefits exceed predisability earnings in a program intended primarily to replace lost earnings.

The Committee bill would address these concerns through a provision which limits total DI family benefits to an amount equal to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. Under the provision no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978. The limitation would not apply to individuals who join the benefit roll after the effective date of the provision who were on the rolls (or had a period of disability) at another time prior to calendar year 1980. This will preclude the new limit on family benefits from applying to anyone who was on the roll in the past. Approximately 120,000 family units, encompassing 355,000 beneficiaries, will be affected by the limitation in the first full year after enactment.

The Secretary would be required to report to the Congress by January 1, 1985 on the effect of the limitation on benefits and of other provisions of the bill.

The committee further is concerned about situations where the payment of disability benefits to an individual from a number of public disability pension or like systems results in aggregate benefits which exceed the individual's predisability earnings. While coordination exists between the DI program and State worker's compensation programs for the purpose of keeping the two forms of disability benefits at an aggregate level no higher than the worker's net predisability earnings, there are numerous other Federal and State programs providing disability benefits or compensation which are not coordinated at all with the DI program. The General Accounting Office has already undertaken a study of the relationship between social security and workers' compensation under the existing provision. The Committee requests the General Accounting Office to also study the prevalence of multiple receipt of disability benefits from DI and other programs (in addition to worker's compensation), as well as various approaches to better coordinate the overall benefits provided to an individual for the purpose of precluding them from exceeding the worker's predisability earnings. This report and the recommendations of the General Accounting Office will be the subject of hearings which the committee intends shall be held next year by its subcommittee on social security.

REDUCTION IN DROPOUT YEARS

(Section 102 of the Bill)

Present law.—Under present law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes.

Although the same general rules apply to determining benefits for disabled individuals and their dependents as to determining benefits for retired workers and their dependents, the application of these rules leads to somewhat different results. In general, benefit levels are apt to be higher for disabled workers because of the smaller number of years over which earnings must be averaged. This is particularly true for younger disabled workers for whom as few as two years may be used in determining the average earnings to which the benefit formula will be applied. For example, in the case of a worker who is disabled at age 29, the number of years used to determine his benefit is equal to the 7 years between the year in which he reached age 21 and the year in which he became disabled less the 5 drop-out years. His benefit is based on his earnings in those two years in which he had his highest earnings. For a worker age 50 or over this exclusion represents only 18 percent of his or her earnings history (5 years out of 28). It represents, however, a 71 percent exclusion for a 29-year-old (5 years out of 7).

Because earnings levels in the economy tend to increase from year to year, the advantage to the younger disabled worker of having his earnings averaged over a very few high years is magnified since the older worker is forced to include years when earnings levels were lower. Prior to the 1977 amendments, this problem was particularly severe since earnings were averaged at their actual values. The 1977 amendments lessened but did not eliminate this advantage by providing for the indexing of earnings to compensate for the impact of changing wage levels in the economy. Younger workers continue to have a substantial advantage both because statutory increases in the amount of

annual earnings subject to social security tax have been much greater in recent years than in earlier years and because individual wage patterns differ widely from average wage patterns. As a result, an individual whose benefits are based on the average of his earnings over his two, three, or four highest years of earnings is likely to have a significantly higher benefit than an older worker who must average his highest ten or twenty or more years of earnings.

Furthermore, data provided to the committee by the Social Security actuaries show that both the average replacement by age group and the incidence of replacement rates over 80 percent of prior earnings are considerably greater among younger workers than older workers. The following table constructed from the actuaries' data show these situations:

TABLE 16.—DISTRIBUTION OF DI REPLACEMENT RATES BY AGE GROUP OF DISABLED WORKERS

	Total		Replacement rate brackets, 80 percent and higher, using high-5 yr of earnings in last 10 as base period for measurement [1] (percent)			Average replacement rate (percent)
	Number of cases	Percent	80 to 89	90 to 99	100 and over	
Age at onset:						
Under 20	64	100	23	6	22	72
20 to 24	574	100	15	2	9	60
25 to 29	698	100	19	2	4	59
30 to 34	652	100	11	1	1	57
35 to 39	714	100	8	3	3	59
40 to 44	889	100	5	2	3	54
45 to 49	1,232	100	3	2	2	49
50 to 54	1,699	100	2	1	2	47
55 to 59	1,965	100	2	1	1	44
60 to 64	1,098	100	1	1	1	41
Total	9,585					49

[1] Based on 1979 PIA levels.

Note: 9,585 cases in sample, including workers both with and without dependents.

Committee provision.—In response to concern that the benefit structure gives undue advantage to younger workers, the committee provision would exclude years of low earnings in the computation of benefits according to the following schedule:

Worker's age:	*Number of dropout years*
Under 32	1
32 through 36	2
37 through 41	3
42 through 46	4
47 and over	5

The provision applies to all disabled workers who first become entitled to benefits after 1979. The provision would not apply to individuals who join the benefit roll after the effective date of the provision, who were on the roll (or had a period of disability) at another time prior to calendar year 1980.

While the committee believes that fewer drop-out years for younger workers will make the benefit structure more equitable for younger and older disabled workers, the committee felt that all workers regardless of age should have at least 1 drop out year.

Approximately 120,000 DI awards, involving 290,000 beneficiaries, will be computed under the new dropout year provision in the first full year after enactment.

MEDICARE WAITING PERIOD

(Section 103 of the Bill)

Present law.—At the present time, beneficiaries of disability insurance must wait 24 months after becoming entitled to benefits to become eligible for medicare. If a beneficiary returns to work and then becomes disabled again, another 24-month waiting period is required before medicare coverage is resumed.

Committee bill.—The committee has heard testimony that the fear of being forced to wait for medicare coverage throughout a second 24-month waiting period has acted as a deterrent to some beneficiaries who might otherwise attempt to return to the work force. In order to remove this work disincentive, the committee bill would eliminate the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows, or widowers and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls, but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within those time periods. The provision would be effective for medicare benefits for services provided after June 1980. Approximately 30,000 persons are expected to be affected by this provision in the first full year after enactment.

EXTENSION OF MEDICARE COVERAGE FOR AN ADDITIONAL 36 MONTHS

(Section 104 of the Bill)

Present law.—Under present law medicare coverage ends when disability insurance benefits cease. Considerable testimony was given to the committee suggesting that this abrupt termination of medicare coverage poses a significant obstacle for many disabled workers to return to work, who are faced with the prospect of losing valuable hospital and other medical insurance coverage at a point when there is great uncertainty about their ability to sustain employment.

Committee bill.—In order to encourage disabled workers to attempt employment as well as to remove the possibility that incurring higher

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health insurance premiums might discourage employers from hiring the disabled, the committee provision would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period would be part of the new 24-month trial work period.) Approximately 30,000 persons are expected to be affected by this provision in the first full year after enactment.

C. Provisions Relating to Disability Benefits Under the SSI Program

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE MEDICAL IMPAIRMENT

(Section 201 of the Bill)

Present law.—The Social Security Act under present law uses an identical definition of disability for purposes of both the disability insurance program under title II of the Act and the SSI disability assistance program under title XVI of the Act.

The definition in the law reads as follows:

> SEC. 1614. (a) * * *
>
> (3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).
>
> (B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect of any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.
>
> (C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.
>
> (D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earn-

> ings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (2), shall be found not to be disabled.

This definition does not establish any level of severity of an individual's medical condition as a test of whether or not he is disabled. Instead, the definition requires that there be present some medically determinable impairment and that that impairment be found to preclude the individual from engaging in "substantial gainful activity" (SGA). The concept of "substantial gainful activity" is, therefore, a key element in the definition of disability. Two individuals with identical medical conditions might properly receive different decisions as to whether or not they are disabled. Considering each individual's vocational background (education, experience, etc.), one may reasonably be found able to get a job at the substantial gainful activity level while the other may not.

The term "substantial gainful activity," is not defined in the statute. Rather, the Secretary of Health, Education, and Welfare is required to prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. These criteria have been expressed in regulations in the form of dollar amounts of earnings above which an individual would be presumed to be engaging in SGA, and therefore not disabled for purposes of the social security definition. The current SGA amount is $280 a month.

In recent years questions have been raised about the failure of the SSI program to remove individuals from disability status through rehabilitation and movement into employment.

A matter of particular concern is the fact that the program may operate in such a way as to actually discourage recipients from seeking employment. This work disincentive problem arises from the basic nature of the program which defines "disability" not by medical severity but rather, as noted above, in terms of incapacity for significant employment—substantial gainful activity. If an individual who has a very severe handicap does successfully perform any significant work activity, he has demonstrated that he no longer lacks the capacity for work. While he is permitted a trial work period during which he may continue to receive benefits, after this period he may be found ineligible. While his increased earnings will at least partially offset his loss of cash benefits, an SSI recipient may also face the loss of medicaid and social services since eligibility for those programs is generally tied to eligibility for at least one dollar of SSI benefits. Thus a severely disabled recipient contemplating the possibility of working may face a combined loss of benefits under the other programs which significantly outweigh the potential gain from earnings.

The committee is deeply concerned about these disincentive features because of the hardships they impose on severely disabled people who have the desire and motivation to seek a more independent life through work effort. At the same time, however, the committee is keenly aware that the disincentives to employment arise from the basic nature of the program as explained above. The committee feels it is necessary to move with great care in addressing those disincentives to avoid making unintended and undesirable changes in the fundamental scope and pur-

poses of the program. For this reason the committee cannot recommend the approach contained in the bill H.R. 3464 as passed by the House of Representatives.

The House-passed bill would have effectively and significantly liberalized the basic definition of disability under the SSI program by changing the definition of what constitutes substantial gainful activity. Under the House bill, an individual could be found "not disabled" on the basis of his earning capacity only if he were unable to earn as much as $481 for a single individual, and $690 for an eligible couple. (Any future automatic cost-of-living increases in the Federal SSI benefit would automatically increase the current basic SGA amounts.) These amounts would be further increased by the amount of any impairment-related work expenses. Thus the SGA level would vary from individual to individual depending on his impairment-related work expenses and on his marital status. A single individual with monthly expenses of $150 would have an SGA level of $631 a month or $7,572 a year. If this same individual had an eligible spouse his SGA level would be $840 a month or $10,080 a year.

The change in the definition of disability could change the program from one in which benefits are intended to be provided only for persons with disabilities severe enough to be generally considered as total or near-total disabilities into one in which benefits are also provided for partial disabilities. Thus, while the expressed intent of the House bill is to remove disincentives for severely disabled persons to seek independence through employment, its result could well be to increase dependency among less severely disabled individuals.

At the same time, the committee is convinced that ways can be found to remedy the work disincentive features of the disability programs without incurring the risks which seem to be inherent in the approach suggested by the House bill.

Committee bill.—Other sections of this bill include provisions which are aimed at responding to the work disincentive issues raised by current law in both the DI and SSI programs. These include provisions for extending the present trial work period from 9 months to 24 months, the exclusion of impairment-related work expenses in determining whether an individual is performing SGA, and for the authorization of experimental and demonstration projects by the Social Security Administration.

In addition, the committee bill includes an amendment, which, on a demonstration basis, provides that a disabled individual who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefit to be reduced to zero ($481 at the present time), the special benefit status would be terminated and the individual would not thereafter be eligible for any benefits under the program unless he could again establish his eligibility for SSI under the rules of existing law. Even though the individual would in said circumstances lose his special benefit status

for purposes of cash payments, he could retain eligibility for medicaid and social services, if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to cotinue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. This provision allowing continuation of eligibility for medicaid and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind. The committee provision would be limited to three years, to give the committee the opportunity to review the effectiveness of the provision. A provision is included in the committee amendment requiring the Social Security Administration to provide for separate accounting of any funds spent under the provision. This will enable both the Administration and the committee to evaluate the magnitude and the effect of the provision. Separate identification of these benefits would also serve to emphasize the intent that the provision not be administered as a change in the overall definition of disability.

The committee is convinced that the amendments it has recommended in this bill represent a very substantial answer to the problem of work disincentives for the severely disabled. At the same time, the committee emphasizes that the provisions of this bill are carefully designed to avoid unintended and undesirable results. The bill makes no change in the basic definition of disability nor in the way that definition is applied in determining initial eligibility. Thus, there can be no possibility that the bill will result in adding less severely disabled individuals to the benefit rolls.

The provision is effective only for the period July 1, 1980 through June 30, 1983. This will allow ample time to assess the success of the new provisions in reducing work disincentives and to consider any problems of administration which may arise.

TREATMENT OF EARNINGS IN SHELTERED WORKSHOPS

(Section 202 of the Bill)

Present law.—Under current interpretations, income received by an SSI recipient who is in a sheltered workshop as part of a rehabilitation program is not considered to be wages and is therefore treated as unearned income. As a result, all remuneration in excess of $20 a month reduces the SSI benefit on a dollar-for-dollar basis. In contrast, income of a recipient in a sheltered workshop who is not in a rehabilitation program is treated as earned income, and the individual is entitled to the earned income disregards ($65 per month plus one-half of additional earnings). It is estimated by the Department of Health, Education, and Welfare that there are approximately 5,000 individuals now in sheltered workshops who are not able to get the benefit of the earned income disregard provisions.

Committee bill.—The committee believes that participation by SSI recipients in vocational rehabilitation programs should be encouraged and that individuals who participate in sheltered employment as part of a rehabilitation program should be eligible for the work incentive features of the earned income disregards in the SSI law. The commit-

tee amendment would eliminate the present discriminatory treatment of these disabled individuals by providing that income received by SSI recipients as remuneration for participation in sheltered workshops be treated as earned income in all cases.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN DISABLED CHILD RECIPIENT OF BENEFITS ATTAINS AGE 18

(Section 203 of the Bill)

Present law.—For purposes of the SSI program, the term "child" is defined to include an individual age 18 through 21 who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment. Otherwise, all persons age 18 or over are treated as adults. The effect of the present definition, in combination with the provision requiring that the parents' income and resources must be deemed to a child under age 21 in determining the child's eligibility for SSI, may be to discourage a disabled individual between the ages of 18 and 21 from attending school or training. By attending school the individual must be considered a "child" under the SSI law, and the parents' income and resources are deemed to him. The result may be that he loses his SSI eligibility, or that the amount of the benefit is greatly reduced. By not attending school the individual is not considered a child, and only his own income and resources are countable for purposes of determining SSI eligibility.

Committee bill.—The committee believes that there is no logical basis for making this distinction between students and nonstudents for purposes of SSI eligibility, and that because of its potentially negative effects on incentives of disabled individuals for education and training, the provision of present law should be changed. Thus the committee bill would, in effect, eliminate any differential treatment of individuals on the basis of student status. Those individuals who on the effective date of the provision are age 18 and over and who are receiving benefits would be protected against any potential loss of benefits under a "grandfather" provision in the committee bill.

The committee provision should not affect significant numbers of SSI recipients. In June 1976 there were only about 18,000 individuals between the ages of 18 and 22 who were receiving SSI benefits, and many of these would not in any case be attending school. The committee expects that for some, however, the change in law will increase the likelihood of school attendance and that the provision will encourage disabled individuals to become self-sustaining.

D. Provisions Affecting Disability Recipients Under OASDI and SSI Programs

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

(Section 301 of the Bill)

Present law.—The 1965 social security amendments gave the Department of Health, Education, and Welfare the authority to use certain social security trust funds to reimburse State vocational rehabilitation

agencies for the cost of services provided to disability insurance beneficiaries. The amendments required the Secretary of HEW to develop criteria for selecting individuals to receive rehabilitation services under the beneficiary rehabilitation program. The criteria were to be based on the savings which would accrue to the trust funds as a result of rehabilitating the maximum number of individuals into productive activity. If the State rehabilitation agency certifies that a beneficiary meets these criteria, the cost of the rehabilitation services is borne by the trust funds.

The Department has developed four criteria for selecting beneficiaries to receive services financed from the trust fund. These are:

1. The disabling physical or mental impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services or to preclude restoration of the beneficiary to productive activity.

2. The disability without the services planned is expected to remain at a level of severity resulting in the continuing payment of disability benefits.

3. A reasonable expectation exists that providing such services will result in restoring the individual to productive activity.

4. The predictable period of productive work is long enough that the benefits which would be saved and the contributions which would be paid to the trust funds from future earnings would offset the costs of planned services.

The title XVI legislation enacted in 1972 authorized the referral of blind and disabled recipients under the SSI program for rehabilitation services provided by State vocational rehabilitation programs. The legislation also authorized the use of general revenues to reimburse the State agencies for the cost of services provided to SSI recipients. Both the House and Senate reports on the SSI legislation state:

> Many blind and disabled individuals want to work and, if the opportunity for rehabilitation for suitable work were available to them they could become self-supporting.

In developing the SSI-vocational rehabilitation program, the Department of HEW followed the pattern of the disability beneficiary rehabilitation program for title II beneficiaries. Regulations implementing the program state that its purpose is:

> * * * to enable the maximum number of recipients to increase their employment capacity to the extent that * * * full-time employment, part-time employment, or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in termination of eligibility for supplemental security income payments, or at least a substantial reduction of such payments * * *.

In keeping with this statement of purpose, the SSI program uses the same four criteria for selecting individuals to receive reimbursed services as are used for selecting individuals under the DI program.

Under present law, persons who are participating in a vocational rehabilitation program are eligible for disability benefits only so long as they continue to meet the definition of disability for the DI and

SSI programs. Even in cases where continuation in a VR program might substantially improve an individual's chances of permanent productive employment, his disability benefits are ended when he is determined to have medically recovered, and as a result he may be forced to discontinue his participation in a rehabilitation program.

Committee bill.—The committee recognizes that a person's physical or mental impairment may sometimes improve to the extent that he may no longer meet the strict criteria required to be eligible for cash benefits, yet not to the extent that would constitute full recovery. In such situations, completion of a vocational rehabilitation program may make a significant difference in the ultimate degree of recovery and the level of productivity and self-sufficiency achieved by the disabled person. The committee bill would amend both the DI and the SSI statutes to provide that benefits under these programs shall not be terminated or suspended because the physicial or mental impairment on which the individual's entitlement to benefits is based has or may have ceased if (1) the individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and (2) the Secretary of HEW determines that the completion of the program, or its continuation for a specified period of time, will increase the likelihood that the individual may be permanently removed from the disability rolls. The committee expects that in most cases medical cessation of disability will result in the termination of benefits, as occurs now in all cases. The committee provision is intended to take into account those exceptional cases where the administration is able to determine that continuation in a vocational rehabiltation program will increase the likelihood of the individual's being permanently removed from the disabilty rolls.

DEDUCTION OF IMPAIRMENT-RELATED WORK EXPENSES IN DETERMINING SGA

(Section 302 of the Bill)

Present law.—Regulations issued under present law provide that in determining whether an individual is performing SGA, extraordinary expenses incurred by the individual in connection with his employment and because of his impairment are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

Committee bill.—For purposes of both the disability insurance and supplemental security income programs, the committee bill would permit a deduction of costs of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity regardless of whether these items are also needed to enable him to carry out his normal daily functions. In addition, the bill provides that the deduction would apply where the disabled individual does not pay the cost of the impairment-

related work expenses (i.e., when the cost is paid by a third party), and adds language giving the Secretary the authority to specify in regulations the type of care, services, and items that may be considered necessary to enable a disabled person to engage in SGA. The amount of earnings to be excluded will be subject to such reasonable limits as the Secretary may prescribe. The committee intends that any such limits not be based on arbitrary conceptions of what amounts are reasonable but rather reflect actual prevailing costs of various categories of impairment-related expenses. Also, since the provision is meant to permit persons with impairment-related work expenses to continue to receive disability benefits even when they have earnings above the SGA level, the committee understands that "services" (the nature and value of the work) generally will not be the basis for determining that an individual has demonstrated an ability to engage in SGA if earnings after deducting allowable work expenses are below the SGA level.

EXTENSION OF THE TRIAL WORK PERIOD

(Section 303 of the Bill)

Present law.—Under present law, when an individual completes a 9-month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following.

The committee is concerned that the present 9-month trial work period is insufficient as an incentive for disabled people to return to work, and wants this situation corrected. The abruptness of the termination of the trial work period forces people who work for some time and then, because of their impairment, must stop work, to refile an application and go through the lengthy determination process again. The committee believes the possibility of having to go through this process again poses a sizable impediment to disabled beneficiaries contemplating a return to work.

Committee bill.—For purposes of the DI program, the committee provision would extend the present 9-month trial work period to 24 months for both DI and SSI recipients. In the last 12 month of the 24-month period the individual would not receive cash benefits while engaging in substantial work activity, but could automatically be reinstated to active benefit status if a work attempt fails. The provision also provides that the same trial work period would be applicable to disabled widows, and widowers (who are not permitted a trial work period at all under existing law). The bill does not alter the aspect of present law in which benefits are paid for the month SGA is achieved and the 2 subsequent months, after a successful completion of the 9-month trial work period.

In addition the provision does not change the aspect of present law that a disability ceases if the individual no longer suffers from a severe impairment.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

(Section 304 of the Bill)

Present law.—The States and the Social Security Administration jointly administer the DI and SSI disability programs. The major responsibility for making disability determinations rests with the State agencies. SSA is responsible for setting administrative policy and for conducting oversight.

Until 1972 the Social Security Administration reviewed a majority of State allowances before they were actually made, thus providing preadjudicative review in most cases. As the result of pressures to reduce costs and staff levels, as well as to meet the pressures of a growing workload, SSA moved to a sample review procedure which involved only 5 percent of allowances. Moreover, these reviews have been made on a postadjudicative basis, that is, after the claimant has already been awarded his disability benefit. Similar sample reviews have been set up at the reconsideration and hearing stages of the process, and for the continuing disability review process.

The State agencies were confronted with very heavy workload increases in the first half of the 1970's, and particularly after the implementation of the SSI program. There is no question that in the minds of many administrators at both the Federal (SSA) and State agency levels the priority in this period was to be speed. Significant backlogs were accumulating at various places and various stages of the claims process, and it was considered important to expedite the process. Many now feel that the result was a decline in the quality of decisions which were being made.

One of the major criticisms that has been made by the existing determination process is that there is not uniformity of decisions and that different State agencies have been making decisions using different criteria. The assumption, thus, is that it is easier (or more difficult) to meet the disability definition depending on where you live.

As can be seen from the table that follows, State allowance rates vary substantially. In fiscal year 1978 initial disabled worker allowances ranged from 53.1 percent in New Jersey to 22.2 percent in Alabama.

TABLE 17.—INITIAL DISABLED WORKER ALLOWANCES AS PERCENT OF INITIAL DISABLED WORKER DETERMINATIONS—HIGH AND LOW STATES

Fiscal Year 1978

High third		*Low third*	
State:	*Rate*	State:	*Rate*
New Jersey	53.1	Alabama	22.2
Nebraska	52.1	New Mexico	22.4
Kansas	49.0	Louisiana	30.6
Wisconsin	48.6	Connecticut	32.4
Utah	48.4	Maryland	32.6
Iowa	47.9	Alaska	32.7
Delaware	47.6	Mississippi	34.1
Colorado	47.5	Arkansas	34.3
Vermont	46.5	Puerto Rico	35.2
Ohio	46.0	New York	35.3
South Dakota	45.7	Washington	35.3
Missouri	45.3	Michigan	35.4
Massachusetts	44.0	California	35.4
Maine	43.9	Idaho	35.8
North Carolina	43.6	Oregon	35.8
Nevada	43.6	Tennessee	36.0
Montana	43.3	New Hampshire	36.8
		Wyoming	36.8

Source: Social Security Administration.

Similarly, variations in allowance and denial rates occur at later stages of adjudication as well. The SSA administrative law judges (ALJ's) have frequently been criticized not only for their variations in productivity, but also for their variations in reversal rates. A person who requests a hearing may be assigned to what have been referred to as either "easy" or "hanging" judges. In the period January—March 1979, 33 percent of ALJs awarded claims to from zero to 46 percent of the disabled workers whose cases they decided. 46 percent of ALJs awarded claims to from 46 to 65 percent, and 21 percent of ALJs awarded claims to from 65 to 100 percent. Overall, the percentage of hearings that result in a reversal (an allowance of benefits) has been increasing. In fiscal year 1969 the title II disability reversal rate was 39 percent. It increased to 46 percent in 1973, and by 1978 had actually increased to more than half, or 52 percent of all cases. The SSI hearing reversal rate has increased from 42 percent in fiscal year 1975 to 47 percent in 1978.

The committee is concerned about these State-to-State, ALJ-to-ALJ variations and about the high rate of reversal of denials which occurs at various stages of adjudication, for it indicates that possibly different standards and rules for disability determinations are being used at the different locations and stages of adjudication.

DISABILITY ADJUDICATION PROCESS

[Calendar year 1978]

Level of decision	Number of decisions [1]	Allowances	Denials	Reversal rate
Initial decisions, total (including district office).	1,190,000	357,000	[2] 833,000	(70% denial rate)[2]
Initial decisions made by State agencies.....	905,000	357,000	548,000	(61% denial rate)
Reconsiderations.....	228,600	45,600	183,000	20%.
ALJ hearings.....	87,800	44,800	43,000	51%.
Appeals council.....	21,600	900	20,700	4%.
Federal courts.....	4,900	[3] 1,600	3,300	33%.[4]

[1] Includes all title II disability decisions—disabled worker, disabled widow(er)s and adults disabled in childhood.

[2] Includes all denials, made both by Social Security district offices and State disability agencies. 285,000 of these denials are technical denials (involving primarily lack of insured status) and do not require a determination of disability by a State agency.

[3] Includes 1,260 remands and 340 court allowances.

[4] Includes remands from Federal courts.

Source: Data provided by the Social Security Administration.

Committee bill.—The committee believes that while the Federal-State determination system generally works reasonably well (many State agencies do an excellent job), significant improvements in Federal management and control over State performance are necessary to ensure uniform treatment of all claimants and to improve the quality of decisionmaking under the Nation's largest Federal disability programs.

In order to strengthen Federal management, the committee provision would eliminate the current system of negotiated agreements between the Federal Government and the States, which gives the Secretary of Health, Education, and Welfare only general authority over the program, and which leaves great discretion to the States as to how the disability determination process is to be carried out. The bill would give the Secretary the authority to establish, through regulations, the procedures and performance standards for the State disability determination procedures. While regulations might specify, for example, administrative structure, the physical location of and relationship among agency staff units, the emphasis is expected to be on performance criteria, fiscal control procedures, and other rules designed to assure equity and uniformity in State agency disability determinations.

States would have the option of administering the program in compliance with these standards or turning over administration to the Federal Government. If a State wishes to make disability determinations with respect to only a portion of the applicant population, the committee bill would give the Secretary the discretion to agree to such an arrangement under such conditions as he determines to be appropriate. States that decide to administer the program must comply with standards set by the Secretary subject to termination by the Secretary if the State substantially fails to comply with the regulations and written guidelines.

The committee believes that this new Federal administrative authority will both improve the quality of determinations and ensure that claimants throughout the Nation will be judged under the same uniform standards and procedures, while preserving the basic Federal-State structure.

If a State elects not to continue administration or the Secretary terminates a State's administration because of substantial failure to comply with regulations, it is essential that there be adequate procedures to establish Federal administration. Two issues are of particular concern: the position of the State employees involved, and the potential disruption of the ongoing determination process which could create hardships for disability applicants.

Although the committee does not expect any widespread departure from traditional State administration of the disability determination process, it is prudent to prepare for this contingency. Even though under existing law States have the power to terminate agreements, the Department of HEW appears not to have done any extensive planning for Federal administration of State operations.

Thus, to stimulate Department planning and to inform the Congress as to what problems would be presented and possible means of alleviating them the provisions would require the Secretary to submit to the Congress, no later than July 1, 1980, a detailed plan on how

he expects to assume the functions and operations of a State disability determination unit should it become necessary. The bill further states that such a plan should assume the uninterrupted operation of the disability determination process, including the utilization of the best qualified personnel to carry out this function.

The provision also requires that recommendations for any amendments of Federal law or regulations required to carry out the plan should be submitted with the report.

In further response to concerns about the uniformity of decisions, the committee provision would have the effect, over time, of reinstituting the review procedure used by SSA until 1972. The committee provision provides for preadjudicative Federal review of at least 15 percent of allowances and denials in fiscal year 1981, 35 percent in 1982, and 65 percent in years thereafter. The requirement of reviewing at least a fixed percentage overall does not mean that this same percentage would apply in every State, nor every stage of adjudication; the committee would expect that the Social Security Administration will review a relatively higher or lower percentage of determinations where this is merited. The requirement that this percentage of reviews be made prior to effectuation of the decision is not intended to preclude other reviews the Secretary may find appropriate either before or after effectuation nor actions he may take as a result of such other reviews.

Under the committee bill, the Secretary would have the authority to revise State agency decisions that are unfavorable to the claimant. Under present law, the Secretary is permitted only to revise favorable decisions of disability or establish a later date of onset of disability.

Although the language of the bill pertains only to the DI program, the committee expects that the review procedures implemented by SSA will be applied equally to both the DI and SSI programs, since the disability determination is, for the most part, the same for both programs. However, the specific percentage goals would have to be met only for the title II program.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANT'S RIGHTS

(Section 305 of the Bill)

Present law.—Notices to claimants regarding the Secretary's decision on their claim for disability benefits provide little guidance as to the causes for a denial.

Complaints about the content of denial notices have been voiced for a long time. It is felt that the brief form letter which constitutes the notice does not provide the individual who has been denied benefits with enough of the particulars of his case to provide assurance that his case has been decided fairly.

Committee bill.—The committee provision would require that notices be provided to denied claimants expressed in language understandable to the claimant, which include a discussion of the evidence of record and the reasons why the disability claim is denied. This will add a number of positive factors to the adjudication process. The State agency decision will be on a sounder base because the examiner

will be required to formulate the reasons for his decision in written form and the claimant may be less likely to appeal the decision if he understands how the law relates to his particular case.

It is not the intent of the committee that the denial notification be a voluminous document. Further, the statement of the case should not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter, it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant.

LIMIT ON PROSPECTIVE EFFECT OF APPLICATION

(Section 306 of the Bill)

Present law.—Present law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a final decision. Thus, a claimant can continue to introduce new evidence at each step of the appeals process, even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application. This is frequently referred to as the "floating application" process.

Committee bill.—The committee bill provides for foreclosing the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative law judge (ALJ) hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect. The committee bill makes this change on a statutory basis only in title II inasmuch as title XVI, unlike title II, does not specify the period of validity for an application but leaves that matter to be determined through regulations. Since the two programs are administered jointly, however, the committee would expect the same rule to be followed in both SSI and DI.

The committee further understands that SSA plans to experiment with the use of an SSA representative to present and defend the reconsideration decision at the hearing. The committee has been told that this new proceeding will create greater uniformity and consistency in administrative law judge (ALJ) decisions and will result in faster, better decisions. It also will ensure that the ALJ is restricted to a judgmental role. At present, the ALJ must conduct the Government's case, assist the claimant, and then decide the outcome of the appeal.

The committee supports SSA's plans to test this approach. It understands that these hearings will be conducted in compliance with the Administrative Procedure Act.

The committee anticipates that the administration would provide the committee with full information on the results of the experiment, including the potential effects on administrative and benefit expenditures, before any decision is made to implement the new "adversary proceeding" nationally.

MODIFICATION OF SCOPE OF FEDERAL COURT REVIEW AND LIMITATION OF COURT REMANDS

(Section 307 of the Bill)

Present law.—Review of a case by the Appeals Council of the Office of Hearings and Appeals is the final recourse a claimant has within the administrative review process of the Social Security Administration if he is dissatisfied with the disposition of his case. However, increasing reversal of the Agency's final decision is being pursued in a U.S. district court.

The number of appeals filed with Federal district courts has grown dramatically in the last decade. As is the situation of the workload of the Office of Hearings and Appeals, the vast majority of the court cases involve disability. Between 1955 and 1970, the number of disability appeals filed with Federal district courts totaled slightly under 10,000 cases for the entire period. Currently, there are approximately 15,000 DI and SSI disability cases pending in the Federal court system.

The statutory base underpinning the scope of judicial review of determinations made by the Agency is found in section 205(g) of the Social Security Act:

> The Court shall have power to enter, upon the pleadings, and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a hearing. The findings of the Secretary as to any fact, *if supported by substantial evidence*, shall be conclusive, * * * (emphasis supplied)

In theory, the "substantial evidence rule" imposed on the courts contrasts the review at that level with those conducted within the administrative process of the Social Security Administration in which cases are reviewed "de novo." Complaints have long been made by the Social SecurityAdministration and others that the courts have frequently by-passed the substantial evidence rule by substituting their judgment of the facts for those of agency adjudicators.

In addition to concern about the growth of the courts' workloads and adherence to the substantial evidence rule, concern has been expressed about the Secretary's authority, on his own motion, to remand a case back to an ALJ prior to filing his answer in a court case.

Some critics have suggested that such absolute discretion gives the Secretary potential authority to remand cases back so that they can be strengthened to sustain court scrutiny. Others have suggested that such a device also may have the tendency to lead to laxity in appeals council review in that it will give the council another look at the case if the claimant decides to go to court.

Similarly, under existing law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ. It would appear that, although many of these court remands are justified, some remands are undertaken because the judge disagrees with the outcome of the case even though he would have to sustain it under the "substantial evidence rule." Moreover, the number of these court remands seems to be increasing.

Committee bill.—The committee provision would modify the scope of Federal court review so that the Secretary's determinations with respect to facts would be final, unless found to be arbitrary and capricious. The committee intends that the courts should apply this test strictly and not use it as a means of substituting the judgment of the court for the judgment of an administrative law judge as to evidentiary adequacy. The substantial evidence requirement would be deleted. This would apply to decisions under both the OASDI and SSI programs. The committee provision also would eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. Instead, remand requested by the Secretary would be discretionary with the court, and only on motions of the Secretary where "good cause" was shown. The bill would continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but adds the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

(Section 308 of the Bill)

Present law.—Under present law and regulations there is no limit on the time taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

Committee bill.—The committee provision requires the Secretary of HEW to submit a report to Congress no later than July 1, 1980, recommending appropriate time limits for the various levels of adjudication.

The provision requires the Secretary in recommending the limits to give adequate consideration to both speed and quality of adjudication. The Secretary's recommendations also should reflect the requirement added by this bill for Federal review of State allowances and denials. Congress could then evaluate the recommendations for consistency with the elements it wishes to emphasize and, if needed, take further action next year.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

(Section 309 of the Bill)

Present law.—Under present law, authority does not exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

The committee believes that information needed to adjudicate cases could be obtained more expeditiously, and possibly avoid the need for further medical consultative examinations, if existing potential suppliers of information could be reimbursed for making their information available.

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Committee bill.—The committee bill provides that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence requested and required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

PAYMENT OF CERTAIN TRAVEL EXPENSES

(Section 310 of the Bill)

Present law.—Under present law, explicit authority does not exist under the Social Security Act to make payments from the trust funds, to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

Committee bill.—The committee bill provides permanent authority for payment of the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the adjudication process.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

(Section 311 of the Bill)

Present law.—Under present administrative practices the State agency not only has the function of deciding who comes on the disability rolls, it must also make determinations as to whether individuals stay on the rolls.

There is, however, no requirement for periodic redetermination of disability for all or even a sizable proportion of persons who are receiving disability benefits. The Social Security claims manual instructs State agencies on certain kinds of cases that are to be selected for investigation of continuing entitlement to disability benefits by means of a medical diary procedure. The agencies are cautioned that most allowed cases involve chronic, static, or progressive impairments subject to little or no medical improvement. In others, the manual further states that even though some improvement may be expected, "the likelihood of finding objective medical evidence of 'recovery' has been shown by case experience to be so remote as not to justify establishing a medical reexamination diary." In general, according to the claims manual, case are to be "diaried" for medical reexamination only if the impairment is one of 13 specifically listed impairments.

The high degree of selectivity used in designating cases for medical reexamination is illustrated by the following statistics for title II. In 1977, there were about 2.7 million disabled workers in current pay status. The number of continuing disability investigations (CDIs) in that year for disabled workers was only about 165,000. Numerous critics, including many within the Social Security Administration, believe that the highly selective diary criteria and other continuing

review procedures are inadequate and result in the continued payment of benefits to many persons who have medically or otherwise recovered from their disability.

Committee bill.—The committee provision provides that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. This review is not intended to supplant the existing reviews of eligibility that are already being conducted such as those under the current "diary" procedures. Moreover, the committee expects that even cases where the initial prognosis shows the probability that the condition will be permanent will be subject to periodic review, although not necessarily every three years in selective circumstances. The committee believes that such procedures should be applied on the same basis to the DI and SSI programs.

E. Provisions Relating to AFDC and Child Support Programs

AFDC WORK REQUIREMENT

(Section 401 of the Bill)

Present law.—Adult members of AFDC families who are capable of employment are required to register for participation in the work incentive (WIN) program established under title IV–C and to accept training or employment offered through that program. Federal funding for the WIN program, including the costs of necessary supportive services, is provided at a 90-percent matching rate. This program is subject to annual appropriations and is presently funded at a level of $365 million.

The work incentive program was originally enacted by Congress in 1967 with the purpose of reducing welfare dependency through the provision of manpower training and job placement services. In 1971 the Congress adopted amendments aimed at strengthening the administrative framework of the program and at placing greater emphasis on immediate employment instead of institutional training, thus specifically directing the program to assist individuals in the transition from welfare to work.

The 1971 amendments required that all persons at least 16 years of age and receiving AFDC benefits must register for WIN, unless caretaker of a child under age, legally exempt by reason of health, disability, needed in the home, advanced age, student status, or geographic location. Registrants selected for participation in WIN must accept available jobs, training, or needed services to prepare them for employment. Refusal to do so without good cause will result in termination of their AFDC payments.

Since these amendments were enacted, there has been a significant increase in the number of persons placed in employment with resultant savings in AFDC funding. In fiscal year 1976, 158,000 WIN registrants entered employment. Of these, 87,000 individuals, plus the children of these individuals, went off of welfare completely as a result of sufficiently high earnings. In fiscal year 1978, 235,000 WIN registrants entered employment, an increase of 49 percent over 1976, with 136,200 of these individuals and their families going off welfare, an increase of 30 percent over 1976. The table below provides additional data on the WIN program.

TABLE 18.—WORK INCENTIVE PROGRAM DATA, FISCAL YEARS 1971–78

Category	1971	1972	1973	1974	1975	1976	1977	1978
Registrations: in year		120,539	1,235,048	820,126	839,408	942,260	1,060,739	1,013,247
Entered employment:								
Full time	50,444	60,310	136,783	177,271	170,641	211,185	245,566	254,191
Part time						19,680	31,988	39,399
Welfare cost savings (millions)				$129.3	[1] $212.4	[1] $297.0	Over $400	600
Program expenditures (millions):								
Total					$276.7	$303.7	$376	$364
Employment service					205.9	196.2	258	247
Welfare agency					70.8	107.6	117	117

[1] Calendar year data.

Source: U.S. Department of Labor.

Committee bill.—Despite growing success in placing AFDC recipients in employment, the committee believes that the present statutory requirements should be strengthened in such a way as to provide additional encouragement for welfare recipients to move into employment. The committee further believes that AFDC recipients who are able to work should be required to actively seek employment and that this should be made explicit in the law. The committee amendment therefore would amend title IV–A to provide that AFDC recipients who are not excluded from WIN registration by law will be required, as a condition of continuing eligibility for AFDC, to participate in the full range of employment-related activities which are part of the WIN program, including employment search activities. The Employment and Training Administration of the Labor Department estimates that if States elected to use employment search as a primary activity, over 200,000 WIN registrants could participate in such activities and that 31 percent would be retained in employment. The committee anticipates that with such an employment search requirement, substantial numbers of AFDC recipients will find jobs and welfare costs will be reduced.

The employment search mandated by the committee amendment is not to be mechanically applied to require every individual to make a specific number of employment contacts. Rather, the term is to be interpreted to mean those activities determined by the State agency to be appropriate for WIN registrants to undertake to actively seek employment. Employment search activities are intended to be supported by necessary services. Thus the amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment and, for a period thereafter, as are necessary and reasonable to enable him to retain employment. For example, transportation costs which are necessary for employment search would be covered, as would the costs of necessary child care. However, the committee expects the program to be so managed that the need for child care will be minimized.

Under present law State matching for supportive services must be in the form of cash. The committee amendment would make it easier for the State to provide the required 10 percent State matching by allowing matching in the form of inkind goods and services.

The amendment would provide for locating supportive services together with manpower services to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and HEW to establish the period of time during which an individual will not be eligible for assistance in the case of a refusal without good cause to participate in a WIN program or accept employment. The amendment also clarifies the treatment of earned income derived from public service employment, and adds to those excluded from the work registration requirement, individuals who are working at least 30 hours a week.

MATCHING FOR AFDC ANTIFRAUD ACTIVITIES

(Section 402 of the Bill)

Present law.—In fiscal year 1977 States reported 183,190 AFDC cases in which there was a question of fraud sufficient to require in-

vestigation of the facts involved. This was 10 percent above the number reported for 1976. Although data are too sketchy to conclude that there has recently been any significant increase in the incidence of fraud, there has been increasing emphasis by the States on the prevention, deterrence, detection, referral for prosecution, and recovery of overpayments in cases involving questions of fraud. Despite this increased activity on the part of the States, a number of problems have been cited in State efforts to deal with welfare cases involving the question of recipient fraud. The 1977 fiscal year report by the Department of Health, Education, and Welfare on the "Disposition of Public Assistance Cases Involving Questions of Fraud" includes a discussion of comments made by State welfare agencies on trends and developments in antifraud programs during the year. Comments include the observation that the statute of limitations frequently is a cause for the dismissal of cases, which indicate backlogs. It was also noted that better preparation of cases referred to law enforcement agencies results in more prompt indictments and/or convictions. A report for the prior year includes the following analysis of State activities:

> Inadequate staffing is a major problem plaguing the identification of cases which involve an intent to defraud, and those which represent overpayments of illegal receipt of assistance. It also affects the actual gathering of essential information for appropriate preparation of information to prove fraud cases for presentation to prosecuting attorneys. Local law enforcement agencies also suffer from staff shortages, resulting in complaints from some States of inaction by county prosecutors on cases which Welfare Board Officials feel should be prosecuted; of long time lapses between referral by prosecuting officers and action taken on cases due to backlog of all criminal cases; and of prosecutors placing a higher priority on the prosecution of crimes other than welfare fraud because of a lack of prosecutors.

Recently there has been increased emphasis in the Department of Health, Education, and Welfare on activities to curb fraud in welfare programs. The committee endorses this emphasis, and expects that the Department will continue to improve the administration of its programs through more rigorous efforts to limit program abuse. The committee realizes, however, that it is the States that must bear the major burden of conducting antifraud activities. At the present time, they are entitled to Federal matching for antifraud activities as part of their regular administrative expenditures, at a 50-percent matching rate.

An analysis of quality control data shows that over 6 percent of all AFDC cases are fraudulent while 11 percent of the cases in error are nonfraudulent. The fraud cases represent 50 percent of the total dollar errors (AFDC, food stamps and medicaid). The average fraud case has a $281 total dollar error compared to $149 per nonfraud case. It is apparent that concentrating on reducing fraud cases would be of great economic value to the Government.

Committee bill.—The committee believes that the new concern for curbing fraud and abuse in welfare programs which has recently been demonstrated by the administration and by the Department of Health, Education, and Welfare should have the effect of further

encouraging the States to pursue the identification and prosecution of fraud. The committee believes, however, that the States should be given positive assistance to accomplish this. The committee amendment therefore would increase the matching rate to 75 percent for State and local AFDC antifraud activities for costs incurred (1) by the welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by the State or local welfare agencies (but only for the costs identifiable with the AFDC antifraud activities); and (3) by attorneys retained under contract (such as the office of the State attorney).

USE OF IRS TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

(Section 403 of the Bill)

Present law.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State has made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health, Education, and Welfare, or his designee. There must also be an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary of HEW in consultation with the Secretary of Treasury, is authorized to establish by regulation criteria for accepting amounts for collection and for making certification, including imposing limitations on the frequency of making certifications.

This provision for using the IRS in child support collections has been used very sparingly by the States. It is, however, recognized as an integral part of the child support collection process which can be used after other efforts to collect delinquent child support payments have proved ineffective.

Committee bill.—The committee has been informed that a number of States believe their child support programs would be strengthened if the IRS collection procedures which are now available for collections in behalf of families receiving AFDC were also available for families receiving State child support services who have not applied for welfare payments. The committee bill would extend IRS's collection responsibilities to non-AFDC child support enforcement cases, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

SAFEGUARDING INFORMATION

(Section 404 of the Bill)

Present law.—Present law provides in part that State plans under title IV–A (AFDC) include safeguards which prevent disclosure of the name or address of AFDC applicants or recipients to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision. Under

their guidelines, HEW exempts audit committees from this exclusion. Several States, however, do not honor the HEW exemption.

Committee bill.—The committee amendment would modify the law to clarify that any governmental agency (including any legislative body or component or instrumentality thereof) authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. The amendment would make similar changes with regard to audits under title XX of the Social Security Act.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

(Section 405 of the Bill)

Present law.—The child support and establishment of paternity program, enacted at the end of the 94th Congress as title IV–D of the Social Security Act, mandates aggressive administration at both the Federal and State levels with various incentives for compliance and with penalties for noncompliance. The program includes child support enforcement services for both welfare and nonwelfare families. The child support enforcement program leaves basic responsibility for child support and establishment of paternity to the States, but provides for an active role on the part of the Federal Government in monitoring and evaluating State child support enforcement programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them.

The legislation creating the child support program requires each State to have a program of child support collection and paternity establishment services for both AFDC and non-AFDC families administered by a single and separate organizational unit within the State under a separate State plan for child support administered separately from other State plans. The States administer the child support program through separate child support agencies, popularly referred to as IV–D agencies. Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. The law specifically requires the entering into of financial arrangements with such courts and officials in order to assure optimum results under the child support program and with respect to any other matters of common concern to the courts and the child support agency. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for or in connection with judges or other court officials making judicial decisions, and other supportive and administrative personnel.

In the first 47 months of the child support program (August 1975 through June 30, 1979), States have reported total collections of over $3.6 billion of which $1.6 billion was for AFDC families and $2.0

billion was for families not on welfare, at a total cost of $1.0 billion or 28 cents per dollar collected.

In the first 47 months of the child support enforcement program, 1,573,000 absent parents were located; there were 970,000 support obligations established; and paternity was established by the courts for 323,000 children.

The heavy impact on the court systems of the cities, counties, and States is apparent from statistics showing the tremendous increase in child support activity in these areas since the program's inception in 1976. In fiscal year 1976, 184,000 parents were located. The number of parents located in fiscal year 1978 was 519,000, an increase of 182 percent in 2 years. In fiscal year 1976, 76,000 support obligations were established. The number of support obligations established in fiscal year 1978 was 350,000, an increase of 361 percent in 2 years. In fiscal year 1976 15,000 paternities were established. The number of paternitie established in fiscal year 1978 was 123,000, an increase of 820 percent in just 2 years.

Table 19 compares the monthly number of child support actions with the number of new AFDC "unwed mother" cases opened each month. It is quite apparent that, except for California, the number of "unwed mother" AFDC cases opened every month far exceeds the child support actions to establish paternity in AFDC cases.

Table 20 compares the number of parents located by the child support program with the number of AFDC cases opened each month. Despite the fact that several large States fall far below the national norm, it is evident that the parent location activity in most States is effectively reducing the backlog of existing AFDC "desertion" cases as well as acting on new cases as they are approved for AFDC benefits.

Table 21 shows the projected backlog of paternity and location cases not yet acted upon by the child support agency because the AFDC worker has not made the required referral action to the child support agency.

Table 22 shows that the average duration in AFDC cases where the AFDC worker has not made the required referral action to the child support agency is 58 months.

The success of the child support program in locating absent parents and having the paternity of children established is gratifying to the committee, although the committee realizes that there is an enormous task still ahead for child support. But even this first push to solve the problems which child support agencies are required to do under present laws has created a tremendous backlog of cases awaiting court action in some States. The committee staff estimates that just in the area of paternity determination by courts there are over 150,000 cases in the courts awaiting action. In the city of Philadelphia, Pa., there are over 30,000 cases for paternity establishment awaiting court action. The committee is concerned that this backlog exists in one of the key elements of the child support program.

Committee bill.—The committee amendment would allow Federal matching for those additional costs of the IV–D program not provided for under current regulations. Matching would cover expenditures (including compensation) for judges or other persons making judicial determinations, and other support and administrative personnel of the courts who perform IV–D functions, but only for those functions spe-

cifically identifiable as IV–D functions. Matching would be paid by the State agency directly to the courts if the State so provided. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1980.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

(Section 406 of the Bill)

Present law.—There is increasing evidence that administration of State welfare programs could be significantly improved if States establish and use computerized information systems in the management and operation of their programs. The committee has approved, as another provision of this bill, an amendment to provide States with increased Federal matching for such systems for use in administering their AFDC programs. That amendment would increase the rate of matching to 90 percent for the costs of developing and implementing AFDC systems and to 75 percent for the costs of operating them. These percentages correspond to the matching that is available to the States for use in their medicaid programs.

At the present time, States and localities that wish to establish and use computerized information systems in the management of their child support programs are eligible to receive 75 percent matching of their expenditures. This is the percentage matching which they receive for all costs of administering the child support program.

Committee bill.—The committee believes that States should be encouraged to develop and use management information systems for all programs in their welfare systems in order to provide better management of their programs and to expedite coordination among programs and across jurisdictions. The committee believes that the child support program is vital to the success of each State's welfare system and improvements in its operation should also be encouraged. The committee bill therefore would provide an incentive to State child support enforcement agencies to develop new systems, to expand or enhance their existing systems, or to utilize model systems developed by HEW's Office of Child Support Enforcement by increasing the rate of matching to 90 percent for the costs of developing and implementing the systems. The cost of operating such systems would continue at the 75 percent matching rate.

Under the amendment, the Office of Child Support Enforcement, Department of Health, Education, and Welfare, would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.)

To qualify for HEW approval, the system would have to meet specific requirements, including capacity to account for child support collections and distributions; handle billing, monitoring and enforcement; provide management information; provide for cross-checking with AFDC records; handle interstate activity; provide necessary data for Federal statistical reporting requirements; and assure security against unauthorized access to, or use of, the data in the system.

Such approval would be based on the Secretary's finding that the initial and annually updated advanced automatic data processing document, which each State must have, will, when implemented, generally carry out the objectives of the management system. Such a document would provide for the conduct of, and reflect the results of, requirements analysis studies, contain a description of the proposed management system, indicate the security and interface requirements in the system, describe the projected and expected to be available resource requirements for staff and other needs, contain an implementation plan and backup procedures to handle possible failure, contain a summary of the system in terms of qualitative and quantitative benefits and provide such other information as the Secretary determines under regulation is necessary.

AFDC MANAGEMENT INFORMATION SYSTEM

(Section 407 of the Bill)

Present law.—There is increasing evidence that administration of the AFDC program could be significantly improved if States establish and use computerized information systems in the management of their programs. Such systems have been demonstrated to be helpful in program planning and evaluation. They also make day-to-day operations more efficient, and they are crucial to assuring that eligibility determinations are properly made and that fraud and abuse are discovered on a timely and ongoing basis. Although the merits of such systems are generally recognized, the States have been slow to develop them because of the large initial outlays which are necessary, and because of the ongoing cost of operating them. States may currently receive Federal matching for the systems as an administrative cost, but Federal matching is limited to 50 percent. This is in contrast to the medicaid program, in which 90 percent Federal matching is authorized for the cost of developing and implementing computer systems, and 75 percent for their operation.

Committee bill.—The committee is convinced that the administration of State AFDC programs could be greatly improved through judicious use of modern computerized management information systems. Recipients could be expected to benefit from more expeditious handling of their cases and decreases in processing time; local, State, and Federal Governments—and the taxpayer—could be expected to benefit from a decrease in costs because of a reduction in errors and use of better planning and management techniques.

Thus, the committee amendment would provide an incentive to the States to develop and expand their existing systems by increasing the rate of matching to 90 percent for the costs of developing and implementing the systems and to 75 percent for the costs of operating them, provided the system meets the requirements imposed by the amendment. (The increased matching would be applicable to existing systems if they meet the criteria for approval of new systems.)

Under the committee amendment, the Department of Health, Education, and Welfare would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.) To qualify for HEW

approval, the system would have to have at least the following characteristics: (1) ability to provide data concerning all AFDC eligibility factors; (2) capacity for verification of factors with other agencies through identifiable correlation factors such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes); (3) ability to control and account for the costs, quality and delivery of funds and services furnished to applicants and recipients; (4) capability for notifying child support, food stamp, social service, and medicaid programs of changes in AFDC eligibility or benefit amount; and (5) security against unauthorized access to or use of the data in the system.

In approving systems, the Department would have to assure sufficient compatibility among the other public assistance, medicaid, and social services systems in the States and among the AFDC systems of different jurisdictions to permit periodic screening to determine whether an individual was drawing benefits from more than one jurisdiction and for determination of eligibility and payment pursuant to requirements imposed by other sections of the Social Security Act.

Such approval would be based on the Secretary's finding that the initial and annually updated advanced automatic data processing document, which such State must have, will, when implemented, generally carry out the objectives of the statewide management system. Such a document would provide for the conduct of and reflect the results of requirements analysis studies, contain a description of the proposed statewide management system, indicate the security and interface requirements in the system, describe the projected and expected to be available resource requirements for staff and other needs, include cost-benefit analyses of each alternative management system, data processing services and equipment and a plan showing the basis for both indirect and direct rates to be in effect, contain an implementation plan to handle possible failure of contingencies, and contain a summary of the system in terms of qualitative and quantitative benefits.

EXPENDITURES FOR OPERATION OF STATE PLANS FOR CHILD SUPPORT

(Section 408 of the Bill)

Present law.—Present law requires that the Federal Office of Child Support Enforcement maintain adequate records for both AFDC and non-AFDC families of all amounts collected and disbursed and the costs incurred in collecting and disbursing these amounts and publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. The Office of Child Support Enforcement must also submit an annual report to the Congress on all activities undertaken in the child support program as well as the major problems encountered at Federal, State, or local levels which have delayed or prevented implementation of the child support program.

Present law also provides that the State will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is required. The committee is aware that some States are delinquent in their

recordkeeping and reporting, and believes that this situation must be corrected.

Committee bill.—The committee has been concerned about the failure of some States to report and account for child support collections for AFDC and non-AFDC families on a reasonable, timely basis. The committee amendment thus would improve State reporting by prohibiting advance payment to the State of the Federal share of administrative expenses for a calendar quarter unless it has submitted a full and complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

ACCESS TO WAGE INFORMATION FOR CHILD SUPPORT PROGRAMS

(Section 409 of the Bill)

Present law.—Under title IV–D of the Social Security Act, States are required to establish special child support agencies to establish paternity and obtain support for any child who is an applicant for or recipient of AFDC. These State agencies must also provide child support services to non-AFDC families, if they apply for child support services. HEW regulations require the State agencies to establish and to periodically review the amount of the support obligation, using the statutes and legal processes of the State.

Committee bill.—The committee bill would improve the capacity of the child support enforcement agency in the State to acquire accurate wage data by providing authority for States and localities to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies. Such information would be obtained by a search of wage records conducted by the Social Security Administration or the employment security agency to identify the fact and amount of earnings and the identity of the employer in the case of individuals who were parents of the children for whom the child support agency was collecting or enforcing support. The Secretary of Health, Education, and Welfare would be authorized to establish necessary safeguards against improper disclosure of the information.

The committee bill specifically authorizes the Social Security Administration to disclose certain tax return information to State and local child support agencies. The information may be used by them for purposes of the child support enforcement program.

TABLE 19.—CHILD SUPPORT CASES OF "PATERNITY ESTABLISHED" PER MONTH COMPARED TO AFDC "UNWED MOTHER" CASE OPENINGS, JULY TO DECEMBER 1977

State	Child support paternity established cases [1]	AFDC unwed mother cases opened [2]	Paternity established cases as percent of cases opened
Alaska	0	47	0.9
Arizona	24	355	6.7
Arkansas	312	501	62.3
California	1,182	934	126.6
Colorado	95	493	19.2
Connecticut	214	558	38.3
Florida	557	1,664	33.5
Georgia	211	1,232	17.1
Hawaii	61	271	22.3
Idaho	3	84	4.0
Illinois	113	3,327	3.4
Indiana	171	803	21.3
Kansas	43	356	12.2
Kentucky	31	922	3.3
Louisiana	84	1,369	6.2
Maryland	525	1,295	40.5
Massachusetts	102	895	11.3
Michigan	547	1,654	33.1
Minnesota	104	682	15.3
Mississippi	68	624	10.9
Montana	6	149	3.8
Nevada	18	92	19.4
New Hampshire	4	126	2.8
New Jersey	625	2,170	28.8
New Mexico	14	242	5.9
New York	1,335	3,221	41.5
North Carolina	427	1,387	30.8
North Dakota	23	100	23.3
Ohio	192	2,341	8.2
Oklahoma	3	450	.6
Oregon	127	550	23.2
Pennsylvania	401	2,438	16.4
South Dakota	9	116	7.5
Tennessee	423	909	46.5
Texas	18	1,872	1.0

See footnotes at end of table.

TABLE 19.—CHILD SUPPORT CASES OF "PATERNITY ESTABLISHED" PER MONTH COMPARED TO AFDC "UNWED MOTHER" CASE OPENINGS, JULY TO DECEMBER 1977—Con.

State	Child support paternity established cases [1]	AFDC unwed mother cases opened [2]	Paternity established cases as percent of cases opened
Utah	14	127	10.9
Vermont	7	57	13.0
Washington	24	581	4.2
West Virginia	13	317	4.1
Wyoming	2	47	3.4
U.S. total	8,132	35,358	23.0

[1] Office of Child Support Enforcement.
[2] Projected from AFDC quality control estimates.

TABLE 20.—CHILD SUPPORT CASES OF "PARENT LOCATED" PER MONTH COMPARED TO AFDC "DESERTION" CASE OPENINGS, JULY TO DECEMBER 1977

State	Child support parents located cases [1]	AFDC desertion cases opened [2]	Parents located cases as percent of cases opened
Alaska	148	47	315.8
Arizona	630	186	338.7
Arkansas	529	269	196.5
California	4,575	467	979.6
Colorado	752	378	198.8
Connecticut	782	381	205.2
Florida	2,085	789	264.2
Georgia	830	653	127.1
Hawaii	490	178	275.3
Idaho	38	105	36.1
Illinois	1,011	1,634	61.9
Indiana	689	265	259.9
Kansas	528	246	214.6
Kentucky	218	753	29.0
Louisiana	244	547	44.6

See footnotes at end of table.

TABLE 20.—CHILD SUPPORT CASES OF "PARENT LOCATED" PER MONTH COMPARED TO AFDC "DESERTION" CASE OPENINGS, JULY TO DECEMBER 1977—Continued

State	Child support parents located cases [1]	AFDC desertion cases opened [2]	Parents located cases as percent of cases opened
Maine	99	246	40.3
Maryland	1,564	978	159.9
Massachusetts	588	1,016	57.9
Michigan	2,364	1,193	198.1
Minnesota	226	274	82.6
Mississippi	392	281	139.4
Montana	113	84	134.0
Nebraska	92	112	82.4
Nevada	224	26	860.9
New Hampshire	81	144	56.5
New Jersey	2,732	1,669	163.7
New Mexico	247	126	195.6
New York	4,924	3,462	142.2
North Carolina	1,184	659	179.7
North Dakota	77	35	219.0
Ohio	1,349	1,066	126.6
Oklahoma	280	404	69.2
Oregon	1,603	533	300.7
Pennsylvania	593	1,896	31.3
South Dakota	5	98	5.4
Tennessee	398	479	83.2
Texas	865	1,268	68.2
Utah	372	188	197.7
Vermont	25	88	27.8
Washington	851	564	150.9
West Virginia	108	300	35.9
Wyoming	212	21	1,007.9
U.S. total	35,115	24,108	145.6

[1] Office of Child Support Enforcement.
[2] Projected from AFDC quality control data.

TABLE 21.—AFDC CASES IN WHICH AFDC WORKER HAS NOT MADE REQUIRED REFERRAL ACTION TO CHILD SUPPORT AGENCY, JULY–DECEMBER 1977

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Alaska	77	103	0
Arizona	236	169	0
California	10,012	6,808	3,204
Colorado	378	309	240
Connecticut	1,435	512	273
Florida	64	192	0
Georgia	1,221	771	257
Hawaii	281	450	168
Illinois	4,634	3,921	891
Indiana	132	0	88
Iowa	225	187	112
Kansas	377	94	283
Kentucky	660	355	253
Louisiana	1,060	689	106
Maine	64	96	64
Maryland	2,188	978	230
Massachusetts	3,100	1,653	2,480
Michigan	5,694	2,928	976
Minnesota	76	0	76
Mississippi	1,442	370	123
Missouri	3,402	1,492	1,014
Montana	0	38	38
Nebraska	0	0	0
New Hampshire	75	0	0
New Jersey	1,669	1,001	445
New Mexico	60	30	30
New York	17,310	12,694	2,596
North Carolina	2,833	3,305	531
Ohio	8,483	3,059	3,894
Oklahoma	173	0	103
Oregon	751	326	326
Pennsylvania	12,518	7,316	2,438
Rhode Island	251	50	0
South Dakota	0	0	36
Tennessee	694	148	248

[1] Projected from AFDC quality control estimates.

TABLE 21.—AFDC CASES IN WHICH AFDC WORKER HAS NOT MADE REQUIRED REFERRAL ACTION TO CHILD SUPPORT AGENCY, JULY–DECEMBER 1977—Continued

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Texas	226	301	0
Utah	36	36	36
Vermont	152	76	342
Washington	171	273	444
West Virginia	165	41	41
Wyoming	14	14	14
U.S. total	82,339	50,785	22,400

[1] Projected from AFDC quality control estimates.

TABLE 22.—AVERAGE NUMBER OF MONTHS CASE HAS BEEN ON AFDC WHERE THE REQUIRED AFDC REFERRAL TO CHILD SUPPORT AGENCY HAS NOT BEEN MADE, JULY–DECEMBER 1977

	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Alaska	40	11	0
Arizona	91	37	0
California	62	63	66
Colorado	37	68	45
Connecticut	56	68	88
Florida	16	118	0
Georgia	65	81	82
Hawaii	25	67	48
Illinois	65	51	32
Indiana	72	0	39
Iowa	23	43	121
Kansas	66	53	106
Kentucky	64	53	42
Louisiana	57	65	103
Maine	34	68	73

[1] Projected from AFDC quality control estimates.

TABLE 22.—AVERAGE NUMBER OF MONTHS CASE HAS BEEN ON AFDC WHERE THE REQUIRED AFDC REFERRAL TO CHILD SUPPORT AGENCY HAS NOT BEEN MADE, JULY–DECEMBER 1977—Continued

State	Eligibility factor [1]		
	Unwed mother	Desertion	Separation
Maryland	44	60	25
Massachusetts	44	62	73
Michigan	36	32	25
Minnesota	78	0	76
Mississippi	58	70	57
Missouri	70	62	50
Montana	0	2	11
Nebraska	0	0	0
New Hampshire	6	0	0
New Jersey	39	58	49
New Mexico	44	22	114
New York	64	54	80
North Carolina	47	78	34
Ohio	53	36	38
Oklahoma	94	0	18
Oregon	40	25	67
Pennsylvania	67	69	76
Rhode Island	68	10	0
South Dakota	0	0	1
Tennessee	57	34	51
Texas	121	51	0
Utah	6	3	10
Vermont	68	144	59
Washington	62	100	35
West Virginia	19	21	16
Wyoming	1	62	0
U.S. total	58	58	58

[1] Projected from AFDC quality control estimates.

F. Other Provisions Relating to the Social Security Act

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

(Section 501 of the Bill)

Present law.—A substantial proportion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. The proportion of dual eligibility can be expected to increase in the future since many of those who are now ineligible for title II benefits are simply so old that their period of work history occurred prior to the time that social security coverage was available. The number of SSI recipients who also receive title II benefits is shown in table 23.

Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefit beyond the beginning of the current quarter.

Even for the current quarter, court decisions require the Social Security Administration to treat the erroneous SSI payments as overpayments which cannot be collected without first offering the recipient an evidentiary hearing.

Committee bill.—Under the committee provision the statute would be amended to provide that an individual's entitlement under the two titles shall be considered as a totality so that payment under either program shall be deemed to be a payment under the other if that is subsequently found to be appropriate. Thus, if payment under title II is delayed so that a higher payment is made under title XVI, the adjustment made in the case of any individual will only be the net difference in total payment. There would, of course, be the proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursement would also be made to the States where State supplementary benefits are involved. The committee expects that the Department will ensure that applicants are made aware this adjustment is required by law at the time they file their claims for benefits.

TABLE 23.—NUMBER AND PERCENT OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS WHO ALSO RECEIVE SOCIAL SECURITY (OASDI) BENEFITS, BY CATEGORY, SEPTEMBER 1978

Reason for eligibility	Total	With social security benefits	
		Number	Percent of total
Total	4,231,049	2,157,269	52.1
Aged	1,993,212	1,374,887	68.9
Blind and disabled	2,238,311	782,382	34.9

EXTENSION OF THE TERM OF THE NATIONAL COMMISSION ON SOCIAL SECURITY

(Section 502 of the Bill)

Present law.—The National Commission on Social Security was established by the Social Security Amendments of 1977, with its members jointly appointed by the President and Congress, to make a broad-scale, comprehensive study of the social security program, including medicare. The study will include the fiscal status of the trust funds, coverage, adequacy of benefits, possible inequities, alternatives to the current programs and to the method of financing the system, integration of the social security system with private retirement programs, and development of a special price index for the elderly.

Under current law, the terms of its members are to last 2 years, and the Commission itself will expire on January 1, 1981.

Additional time will be needed to closeout the work of the Commission as well as to extend the terms of its members to coincide with the expiration date of the Commission.

Committee bill.—The committee provision would extend for 3 months the expiration date of the National Commission on Social Security and the terms of its members. Under the committee provision, the Commission's work and the terms of its members would end on April 1, 1981.

FREQUENCY OF FICA DEPOSITS FROM STATE AND LOCAL GOVERNMENTS

(Section 503 of the Bill)

Present law.—Effective January 1, 1951, the Social Security Act extended social security coverage to State and local government employees. Coverage is through voluntary agreements between the Secretary of HEW and the individual States. The act provides that the regulations of the Secretary shall be designed to make the deposit requirements imposed on States the same, so far as practicable, as those imposed on private employers.

Each State deposits the combined State and local government social security contributions directly with the Federal Reserve Bank for transfer to the trust funds. As required by regulation, each State deposits contributions and files wage reports of covered employees with HEW within 1 month and 15 days after the end of each calendar quarter. This time frame was requested by the States and has been in effect since 1959. Before 1959, the States were required to file wage reports and make deposits within 30 days after the end of each calendar quarter.

Contributions paid by workers and their State and local government employers increased from about $867,000 in fiscal year 1951 to over $9.8 billion in fiscal year 1977. These contributions are estimated to increase to about $15.7 billion by fiscal year 1980.

On March 30, 1978, the Department published in the Federal Register its proposed rulemaking increasing from quarterly to monthly the frequency with which States must deposit social security contributions on wages and salaries paid to covered employees—the so-called 15–15–15 method.

By allowing the States to make quarterly deposits of State and local contributions, HEW lost about $1.1 billion in interest income to the trust funds from 1961 through 1979.

HEW considered both the oral and written comments on its proposed rules and, as a result, made changes which require that the States deposit the social security contributions for each of the first 2 months of a calendar quarter by the 15th day after each month. The contributions for the third month of the quarter will not be due until 1 month and 15 days after the end of that month—the so-called 15–15–45 method. These changes were published in the Federal Register on November 20, 1978, and are to become effective July 1, 1980.

Committee bill.—In order to ease the transition to the new depositing schedule, the committee provision requires that FICA deposits from State and local governments will be due 30 days after the end of each month. The provision would be effective beginning July 1980. The committee recognizes that, in some instances, the thirtieth day following the end of a month would fall on a holiday or week end. In such circumstances, the committee intends that the provision be interpreted to require that any necessary payments be deposited no later than the preceding working day so that in all cases the overall 30 day limitation would not be exceeded.

ELIGIBILITY OF ALIENS FOR SSI

(Section 504 of the Bill)

Present law.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." The latter category refers primarily to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that

the alien will be supported. In addition, the Immigration and Nationality Act provides that an immigrant who becomes a "public charge" within 5 years of his entry into the United States may be deported if the cause of his becoming a "public charge" did not arise subsequent to his entry. However, receipt of SSI payments does not constitute becoming a "public charge" under present court interpretations of that term.

There have been complaints, particularly in a few States, that legal aliens have been applying for and receiving welfare benefits within a very short period after their entry into the country. As welfare recipients, these aliens are also generally eligible for the full range of medicaid benefits offered within their State.

Under the SSI statute, legal aliens are eligible for payments within 30 days after their arrival in the United States.

In a February 1978 report, "Number of Newly Arrived Aliens Who Receive Supplemental Security Income Needs To Be Reduced," the General Accounting Office estimated that about 214,000 aliens receive SSI, of which about 42,000 are newly arrived. The GAO observed in its report that "The public charge provisions of the Immigration and Nationality Act are ineffective in screening out aged (age 65 or older) aliens who may need SSI assistance soon after arrival in the United States. We estimate that 34 percent of the aged aliens who entered the United States during fiscal years 1973–75 were receiving SSI at the end of December 1976."

Committee bill.—The committee agrees with the recommendation of the GAO in its 1978 report that there should be a residency requirement to prevent assistance payments to newly arrived aliens. The committee bill would require an alien to reside in the United States for 3 years before he would be eligible for SSI. The provision would not apply to aliens under age 65 who are suffering from blindness or disability on the basis of conditions which arose after the time they were admitted to the United States.

DEMONSTRATION AUTHORITY TO PROVIDE SERVICES TO THE TERMINALLY ILL

(Section 505 of the Bill)

Present law.—Under present law there is a 5-month waiting period before benefits are payable under the disability insurance program. The committee has heard testimony that this waiting period sometimes constitutes an unreasonable hardship for persons who are suffering from a terminal illness, and that it should not apply in such cases. The committee has also heard testimony that it is difficult to justify waiving the waiting period for the terminally ill, while continuing to apply it for other disabled individuals, inasmuch as many other disabled workers are likely to have similar needs for income during the initial months of disability. In a memorandum by the Office of the Actuary of the Social Security Administration, which discusses the difficulty of estimating costs of this kind of proposal, it is observed that "Due to the difficulty involved in predicting whether an illness will result in premature death, especially within a limited time of 12 months or less, the level of accuracy of determinations of terminal illness cannot be expected to be very good. It is expected that many per-

sons will be found reasonably likely to die within 12 months of onset who will in fact survive the year. Similarly many persons will die within 12 months of onset who will not have been expected to do so." The actuary estimates that the long-range cost to the disability trust fund for the proposal would be .03 of taxable payroll.

Committee bill.—The committee believes that there is a need to find ways to improve assistance for persons who are terminally ill. The committee has been informed that the Department of Health, Education, and Welfare is currently undertaking a demonstration project through the Health Care Financing Administration to determine how best to provide the full range of services needed by persons who are terminally ill. The committee believes that it is appropriate for the Social Security Administration to participate in this project, and has included in its bill a provision authorizing up to $2 million a year to be used by SSA for the purpose of studying the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected by the committee that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the committee to amend the Social Security Act so as to provide the kinds of assistance most appropriate for individuals who are suffering from terminal illnesses.

WORK INCENTIVE AND OTHER DEMONSTRATION PROJECTS UNDER THE DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS

(Section 506 of the Bill)

Present law.—Under present law, the Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI and XVIII of the Social Security Act to conduct experimental or demonstration projects.

Committee bill.—The committee believes that there is great need to improve the operations of the disability insurance, supplemental security income, and medicare programs as they relate to the disabled. These programs may, over time, affect the lives of nearly every individual and family in the Nation. It is highly important, therefore, that they be administered in the most efficient and effective way possible.

So far as the disability insurance program is concerned, one of the areas in which there is the most pressing need for information is the area of how to encourage disabled individuals to remain in and to return to the work force. Therefore, the committee has included in its bill as a matter of high priority specific authority for the waiver of certain benefit requirements of titles II, XVI, and XVIII to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries. The bill requires SSA to report to the Congress on its findings on work incentives by January 1, 1983. The committee bill also authorizes waivers in the case of other disability insurance demonstration projects which SSA may wish to undertake, such as study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or

otherwise stimulate new forms of rehabilitation. In addition, the committee bill includes authorization for waiver of requirements under title XVI to carry out experimental, pilot, or demonstration projects which are likely to assist in promoting the objectives or facilitate the administration of the SSI program. The bill provides for allocation of costs all such demonstration projects to the programs to which the project is most closely related. In the case of the SSI program, the Secretary is authorized to reimburse the States for the non-Federal share of payments or costs for which the State would not otherwise be liable. A final report on the projects authorized by this section would be due five years from enactment. (The committee recognizes that some elements of the experimental or demonstration projects might have to remain in effect beyond that date in order to assure the validity of the research.)

The committee bill includes a provision to waive certain requirements of the human experimentation statute, but to require that the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act would take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. The committee does not intend that this provision modify the requirements of the human experimentation statute as they apply to direct medical experimentation with actual diagnosis or treatment of patients.

INCLUSION IN WAGES OF FICA TAXES PAID BY EMPLOYER

(Section 507 of the bill)

Present law.—In general, employers are required to pay an *employer* social security tax on the wages they pay their employees and to withhold from those wages an equal *employee* social security tax. As an alternative to this procedure, however, present law allows employers to assume responsibility for both the employer and employee taxes instead of withholding the employee's share from his wages. Under this alternative procedure, the payment by the employer of the employee's social security tax represents, in effect, an additional amount of compensation. However, existing law specifically exempts that amount of additional compensation from social security taxes. The net effect is that, for a given level of total compensation, somewhat lower social security taxes would be payable if the employer pays the employee social security tax instead of withholding it from the employee's wages.

Committee bill.—The committee recognizes that the provision of existing law has proved to be a matter of some convenience in certain employment relationships, particularly when relatively small amounts of wages are involved as in the case of domestic employment. However, the committee is seriously concerned over reports that there may be increasing use of the provision as a means of tax avoidance involving more substantial wage and tax payments than were envisioned when the existing law provisions were originally adopted. The committee has been advised that potential losses to the trust funds could run into the billions of dollars if the use of this provision continues to spread. For these reasons, the committee has decided to modify the provisions of existing law so that after 1980 any amounts of employee

social security taxes paid by an employer will be considered to constitute wages and will therefore be subject to social security taxation. This change will not apply in the case of payments made on behalf of domestic employees.

III. Cost Estimates and Actuarial Data Provided by the Administration

ACTUARIAL STATUS OF THE DISABILITY INSURANCE TRUST FUND UNDER THE BILL

Short term.—The status of the disability insurance trust fund was strengthened substantially by the Social Security Amendment of 1977, which increased the amount of tax contributions allocated to the trust fund. The Social Security Administration's current estimates, which are based on the Administration's Mid-Session Review assumptions, indicate that the disability insurance trust fund will amount to $5.4 billion at the end of 1979 and that it will grow rapidly during the following 5 years, reaching $28.5 billion by the end of 1984 under present law. The projected rapid growth of the DI trust fund is also due, in part, to a significant reduction in the number of benefits awarded to disabled workers after 1977. On the other hand, the old-age and survivors insurance trust fund is expected to continue to decline during the next 5 years, largely offsetting the rapid growth in the DI trust fund.

Estimates of the operations of the disability insurance trust fund under present law and under the program as modified by the committee bill are shown in tables 29 and 28 for calendar years 1978–84 and fiscal years 1978–84, respectively.

Long term.—On a long-term basis, the situation of the disability insurance trust fund under present law is favorable. The 1979 trustees' report reflects new assumptions of substantially reduced disability incidence rates in the future as compared with those assumed in earlier reports. These assumptions reflect the improved experience since 1975 and particularly in 1978. The reasons for this improvement are not wholly known.

The 1978 trustees' report indicated a long-term actuarial balance of −0.14 percent of taxable payroll in the disability insurance program, but the more favorable assumptions as to incidence rates in the 1979 report changed this to +0.21 percent. This bill, as amended by the Senate Finance Committee, provides a savings of 0.14 percent of taxable payroll, thereby raising the actuarial surplus to 0.35 percent. Although the DI program is therefore in an actuarially sound condition, its past history of volatility suggests caution in making any precipitous changes in financing.

The bill also has some impact on the old-age and survivors insurance program. The actuarial balance for that program would be reduced by .01 percent of taxable payroll to a level of −1.40.

The long-range estimates presented in this section are based on the intermediate assumptions described in the 1979 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.

H.R. 3236 AS MODIFIED BY SENATE FINANCE COMMITTEE

TABLE 24.—LONG-RANGE COST EFFECT ON THE OASDI SYSTEM BY PROVISION: INTERMEDIATE ASSUMPTIONS—1979 TRUSTEES' REPORT

[As percent of taxable payroll]

	OASI	DI	Total
Average scheduled tax rate	10.05	2.13	12.19
Average expenditures (present law)	11.47	1.92	13.38
Actuarial balance	−1.41	+.21	−1.20
Effect of provisions of bill:[1]			
1. Limitation on total family benefits for disabled-worker families (sec. 101)	(2)	−.06	−.06
2. Reduction in number of dropout years for younger disabled workers (sec. 102)	(2)	−.05	−.05
3. Deduction of impairment-related work expense from earnings in determining substantial gainful activity (sec. 302)	(2)	+.02	+.02
4. Federal review of State agency determinations (sec. 304)	(2)	−.02	−.02
5. More detailed notices specifying reasons for denial of disability claims (sec. 305)	(2)	(2)	(2)
6. Payment for existing medical evidence (sec. 309)	(2)	(2)	(2)
7. Periodic review of disability determinations (sec. 311)	(2)	−.03	−.03
8. Treatment of employer-paid employee FICA taxes as wages	−.01	(2)	−.01
Total effect of bill	−.01	−.14	−.15
Average scheduled tax rate	10.05	2.13	12.19
Average expenditures (after enactment)	11.46	1.78	13.23
Actuarial balance	−1.40	+.35	−1.05

[1] Estimates for each provision take into account interaction with provisions that precede it in the table.

[2] Less than 0.005 percent of taxable payroll.

COST ESTIMATES FOR H.R. 3236 AS REPORTED BY THE SENATE FINANCE COMMITTEE

TABLE 25.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION

(PLUSES INDICATE COST, MINUSES INDICATE SAVINGS)

Provision [1]	Estimated effect on OASDI expenditures in fiscal years 1980–84 [2] (in millions)					Estimated effect of long-range OASDI expenditures as percent of taxable payroll [2]
	1980	1981	1982	1983	1984	
1. Limitation on total family benefits for disabled-worker families (sec. 101):						
Benefit payments	−$25	−$97	−$175	−$262	−$350	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total	−25	−97	−175	−262	−350	−0.06
2. Reduction in number of dropout years for younger disabled workers (sec. 102):						
Benefit payments	−13	−49	−95	−149	−207	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total	−13	−49	−95	−149	−207	−.05
3. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 302):						
Benefit payments	([4])	+4	+10	+18	+26	.....
Administrative costs	([3])	([3])	([3])	([3])	([3])	.....
Total		+4	+10	+18	+26	+.02

4. Federal review of State agency determinations (sec. 304):						
Benefit payments		−2	−11	−40	−73	
Administrative costs	+1	+11	+25	+41	+43	
Total	+1	+9	+14	+1	−30	−.02
5. More detailed notices specifying reasons for denial of disability claims (sec. 305):						
Benefit payments	(5)	(5)	(5)	(5)	(5)	
Administrative costs		+13	+18	+19	+20	
Total		+13	+18	+1900	+20	(6)
6. Payment for existing medical evidence (sec. 309):						
Benefit payments	(5)	(5)	(5)	(5)	(5)	
Administrative costs	+5	+21	+22	+23	+24	
Total	+5	+21	+22	+23	+24	(6)
7. Periodic review of disability determinations (sec. 311):						
Benefit payments		−2	−26	−65	−110	
Administrative costs	+3	+13	+42	+43	+45	
Total	+3	+11	+16	−22	−65	−.03
8. Demonstration project concerning services needed by terminally ill (sec. 505):						
Benefit payments						
Administrative costs	+2					
Total	+2					(6)

See footnotes at end of table.

COST ESTIMATES FOR H.R. 3236 AS REPORTED BY THE SENATE FINANCE COMMITTEE

TABLE 25.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISION—Continued

(PLUSES INDICATE COST, MINUSES INDICATE SAVINGS)

Provision [1]	Estimated effect on OASDI expenditures in fiscal years 1980–84 [2] (in millions)					Estimated effect of long-range OASDI expenditures as percent of taxable payroll [2]
	1980	1981	1982	1983	1984	
Totals:						
Benefit payments	−$38	−$146	−$297	−$498	−$714	.....
Administrative costs	+11	+58	+107	+126	+132	.....
Total net effect on OASDI trust fund expenditures	−27	−88	−190	−372	−582	−.14

[1] The benefit estimates shown for each provision take account of the provisions that precede it in the table.

[2] Estimates are based on the intermediate assumptions in the 1979 trustees report. The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 years. The total reduction does not equal the sum of the components because of rounding.

[3] Additional administrative expenses are less than $1,000,000.

[4] Less than $500,000.

[5] None.

[6] Less than 0.005 percent.

TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION

(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
1. Limitation on total family benefits for disabled-worker families (sec. 101):					
SSI program payments	(1)	+$1	+$2	+$2	+$3
AFDC program payments	+$3	+5	+8	+10	+12
Total	+3	+6	+10	+12	+15
2. Reduction in number of dropout years for younger disabled workers (sec. 102): SSI program payments	+5	+10	+18	+27	+38
3. Extension of medicare coverage for 36 months for workers whose benefits are terminated because of SGA (sec. 104): Medicare benefits [2]	+1	+14	+42	+68	+76
4. Eliminate additional Medicare waiting periods and requirement that months in medicare waiting period be consecutive (sec.103): Medicare benefits [2]	+10	+46	+53	+61	+68
5. Federal review of State agency determinations (sec. 304):					
Medicare benefits [3]		(1)	(1)	−1	−6
SSI program payments		(1)	−2	−5	−10
SSI administrative costs	(1)	+6	+12	+20	+21
Total [4]	(1)	+6	+10	+14	+5

See footnotes at end of table.

TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION—Continued

(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
6. Periodic review of disability determinations (sec. 311):					
Medicare benefits [2]			(1)	−$7	−$19
SSI program payments		−$1	−$11	−27	−36
SSI administrative costs	+$2	+8	+23	+24	+25
Total [4]	+2	+7	+12	−10	−30
7. Special SSI benefit status for persons who lose eligibility because of SGA (sec. 201):					
SSI program payments		+1	+2	+5	(5)
Medicaid expenditures		(1)	+1	+3	(5)
Total		+1	+3	+8	
8. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 302):					
SSI program payments	(1)	+1	+2	+3	+3
Medicaid expenditures	(1)	(1)	+1	+1	+2
Total	(1)	+1	+3	+4	+5
9. Terminate parental deeming after age 18 in SSI program (sec. 203): SSI program payments	(1)	+1	+2	+3	+3

10. More detailed notices specifying reasons for denial of disability claims (sec. 305): SSI administrative costs		+3	+4	+4	+4
11. Adjustments between title II and title XVI to avoid windfall benefits (sec. 501):					
SSI program payments	−10	−21	−22	−23	−24
SSI administrative costs	(1)	(1)	(1)	(1)	(1)
Total	−10	−21	−22	−23	−24
12. Treatment of earnings received in sheltered workshops for purposes of SSI benefits (sec. 202): SSI program payments	(1)	+2	+2	+2	+2
13. 3-year residency requirement for aliens to be eligible for SSI benefits (sec. 504): SSI program payments	−4	−18	−25	−47	−60
14. Employment search activites as a condition of continuing eligibility for AFDC (sec. 401): Federal AFDC program costs [6]	(1)	(1)	(1)	(1)	(1)
15. Increased Federal matching for anti-fraud activities (sec. 402): Federal AFDC program costs [6]	+10	+23	+25	+28	+31
16. Federal matching for AFDC management information systems (sec. 407): Federal AFDC program cost [6]	+4	+17	+27	+37	+75
17. Access to wage information for child support program (sec. 409): Child support program costs [6]	−9	−10	−11	−12	−13
18. Federal matching for child support management information systems (sec. 406): Child support program costs [6]	+2	+6	+4	−2	−2
19. Federal matching for child support duties performed by court personnel (sec. 405): Child support program costs [6]	(1)	+1	+1	+1	+1
20. Use of IRS to collect child support for non-AFDC families (sec. 403): Child support program costs [6]	−4	−6	−7	−8	−10

See footnotes at end of table.

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TABLE 26.—ESTIMATED EFFECT ON SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES, BY PROVISION—Continued

(Pluses indicate cost, minuses indicate savings)

Provision	Estimated effect on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980–84 (in millions)				
	1980	1981	1982	1983	1984
Totals:					
Total additional benefit payments from medicare trust funds	+$11	+$60	+$95	+$121	+$119
Total effect on expenditures from general fund:					
SSI	−7	−7	+7	−12	−31
AFDC and child support	+6	+36	+47	+54	+94
Medicaid			+2	+4	+2
Total	−1	+29	+56	+46	+65
Total effect on medicare and general fund expenditures	+10	+89	+151	+167	+184

[1] Less than $500,000.
[2] Long-range average cost or savings to the hospital insurance program over the next 25 years is less than 0.005 percent of taxable payroll.
[3] Long-range HI savings is 0.01 percent of taxable payroll.
[4] There will be relatively small changes in medicaid payments.
[5] Provision in effect for 3 years only.
[6] Congressional Budget Office estimates; rounded to the nearest million.

TABLE 27.—SUMMARY OF ESTIMATED EFFECT OF COMMITTEE BILL ON OASDI EXPENDITURES; OASDI INCOME; AND SSI, AFDC, MEDICARE, AND MEDICAID EXPENDITURES

(In millions)

	Fiscal years—				
	1980	1981	1982	1983	1984
Total net effect on OASDI trust fund expenditures (from table A)	−$27	−$88	−$190	−$372	−$582
Total net effect on SSI, AFDC, medicare, and medicaid expenditures	+10	+89	+151	+167	+184
Total net effect on Federal Government expenditures	−17	+1	−39	−205	−398
Effect on OASDHI trust fund income:					
As a result of changing the frequency of FICA deposits from State and local governments (sec. 503) (reduction in interest income to the trust funds)		−14	−19	−20	−21
As a result of including employer-paid FICA taxes as wages (sec. 507)		+30	+50	+70	+100
Total net effect on OASDHI trust fund income		+16	+31	+50	+79

H.R. 3236 AS APPROVED BY THE SENATE FINANCE COMMITTEE

TABLE 28.—ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE COMMITTEE BILL, FISCAL YEARS 1978–84

(In billions)

Fiscal year	Income		Outgo		Net increase in fund	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
1978	$12.8	$12.8	$12.7	$12.7	$0.1	$0.1
1979	15.2	15.2	14.0	14.0	1.2	1.2
1980	17.5	17.5	15.8	15.8	1.7	1.8
1981	20.8	20.8	17.7	17.6	3.1	3.2
1982	24.1	24.2	19.5	19.3	4.6	4.8
1983	27.0	27.0	21.4	21.0	5.6	6.0
1984	29.9	30.0	23.4	22.8	6.5	7.2

	Fund at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Committee bill	Present law	Committee bill
1978	$4.4	$4.4	34	34
1979	5.5	5.5	31	31
1980	7.3	7.3	35	35
1981	10.4	10.5	41	42
1982	15.0	15.3	53	54
1983	20.6	21.4	70	73
1984	27.1	28.5	88	94

Note: The above estimates are based on the administration's mid-session review assumptions.

TABLE 29.—ESTIMATED OPERATIONS OF THE DI TRUST FUND UNDER PRESENT LAW AND UNDER THE PROGRAM AS MODIFIED BY THE COMMITTEE BILL, CALENDAR YEARS 1978–84

(In billions)

Calendar year	Income		Outgo		Net increase in fund	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
1978	$13.8	$13.8	$13.0	$13.0	$0.9	$0.9
1979	15.7	15.7	14.5	14.5	1.2	1.2
1980	18.0	18.0	16.3	16.2	1.8	1.8
1981	22.0	22.0	18.1	18.0	3.8	3.9
1982	24.9	24.9	20.0	19.7	4.9	5.1
1983	27.7	27.8	21.9	21.4	5.8	6.3
1984	30.7	30.8	23.9	23.3	6.8	7.5

	Fund at end of year		Assets at beginning of year as a percentage of outgo during year	
	Present law	Committee bill	Present law	Committee bill
1978	$4.2	$4.2	26	26
1979	5.4	5.4	29	29
1980	7.2	7.3	33	34
1981	11.0	11.2	40	40
1982	15.9	16.3	55	57
1983	21.7	22.6	73	76
1984	28.5	30.2	91	97

Note: The above estimates are based on the administration's mid-session review assumptions.

IV. Regulatory Impact of the Bill

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate the following evaluation is made of the regulatory impact which would be incurred in carrying out the bill.

This legislation primarily relates to the structure of existing programs providing benefits for disabled individuals. As such it does add or modify any major activities of a regulatory nature. The regulatory impact of the bill, is therefore, essentially limited to the routine and incidental regulatory processes necessary to implement changes in Federal benefit programs and their administration.

Provisions relating to amount of disability benefits and continuation of eligibility status for disability and disability-related benefits.—Several provisions of titles I, II, and III of the bill are designed to modify elements of the Social Security Act programs which provide for disabled persons cash benefits and related benefits of a medical or social service nature. These modifications are designed to improve the climate for rehabilitation both by limiting benefit levels in cases where

existing levels are considered so high as to provide a disincentive to rehabilitaton and by extending trial work periods and auxiliary benefit eligibility so as to minimize the concern that rehabilitation will result in a net loss to the individual. The programs in question now serve a population consisting of some 7 million disabled persons and dependents. In general, any limitations on benefits under the bill will affect none of those now receiving benefits while the provisions which provide for additional benefits in certain circumstances will apply to existing as well as future beneficiaries. In either case, there may be some additional paperwork in the form of applications and routine supporting documentation but this is not expected to differ in any significant respect from the overall level of paperwork under existing law for these programs. While some information now required might be needed in some instances, such information would not involve any substantial impact on the privacy of individuals. Any economic impact would be expected to result primarily from the nature of the benefit modifications rather than from any regulatory changes needed to implement those modifications.

Administrative changes.—The bill includes a number of provisions designed to improve the administration of disability and welfare programs. While these provisions are not essentially regulatory in nature, they will involve a fairly significant amount of regulatory activity in their implementation. In particular, the bill revises the regulatory basis for Federal oversight of the disability determination process with a view towards producing more effective administration and improved accuracy and uniformity. It is not anticipated that these provisions of the bill will result in any net increase in paperwork. The bill does, however, include an important requirement that certain existing paperwork provisions be modified to include understandable explanations of benefit determinations. The major economic impact would be the result of more accurate benefit decisions which will improve the situation of individuals who would otherwise have been improperly denied benefits and cause a financial loss for individuals who might otherwise have received benefits to which they are not entitled.

For the most part, the bill has no privacy impact other than in the nature of purely routine requirements for information essential to determining benefit eligibility. The bill does, however, include a provision (section 404) which modifies overly severe privacy protection provisions which have been interpreted in some cases to prevent necessary program audits. The bill also permits, subject to careful statutory protections, the use of certain earnings information in the possession of the Social Security Administration and State unemployment compensation agencies for purposes of aiding in the effective operation of the child support enforcement program.

V. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill.

The bill was ordered reported by a voice vote.

VI. Budgetary Impact of the Bill

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

The Committee generally accepts the estimates of the Congressional Budget Office with respect to the budgetary impact of the bill. The Committee has also incorporated in the report detailed cost estimates of the Social Security Administration. While the two sets of estimates differ in some respects, both seem to the Committee to be within the realm of reasonable variation. As indicated in the Congressional Budget Office report, the overall impact of the bill represents a budgetary savings. This forms a part of (and is therefore consistent with) the projected savings indicated for "other income maintenance" in the allocations of the Committee in its most recent allocation report under the first concurrent resolution on the budget for fiscal year 1980. (Senate Report 96–386.)

The estimate prepared by the Congressional Budget Office concerning this bill is printed below:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., November 8, 1979.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Sections 308(a) and 403 of the Congressional Budget Act, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3236, Social Security Disability Amendments of 1979.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ROBERT D. REISCHAUER,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3236.

2. Bill title: Social Security Disability Amendments of 1979.

3. Bill status: November 6 draft version of bill ordered reported by the Committee on Finance on October 31, 1979.

4. Bill purpose: The primary purposes of this bill are (1) to limit benefits to new disability recipients with families and to younger disabled workers; (2) to provide certain work incentives with the objective of increasing the recovery rate of disabled workers; (3) to codify and strengthen certain administrative practices; and (4) to provide certain Federal grants to States for management of the AFDC and child support enforcement programs.

5. Cost estimates: It is estimated that H.R. 3236, as ordered reported by the Senate Finance Committee, will have the following net effect on the Federal budget:

TABLE 1.—ESTIMATED NET COSTS OR SAVINGS TO THE FEDERAL BUDGET

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Direct spending provisions:					
Estimated budget authority	4	7	19	40	77
Estimated outlays	−38	−105	−207	−365	−598
Amounts subject to appropriation action:					
Required budget authority	1	54	102	105	137
Estimated outlays	1	54	102	105	137
Net budget impact: Net change in deficit	−37	−51	−105	−260	−461

The bill has cost effects on a number of Federal programs. There will be net savings from the Social Security Disability Trust Funds, offset by higher income maintenance and medicare costs. There are also separate provisions affecting the Supplemental Security Income Program which have savings in most years, although SSI has net additional expenditures as a result of the DI caps provision's offsets. And there are provisions offsetting the aid to families with dependent children program which have a net cost. The following tables summarize the budget authority and outlay impact to each of these major program areas.

TABLE 2.—ESTIMATED CHANGE IN DISABILITY INSURANCE OUTLAYS AND BUDGET AUTHORITY

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Estimated budget authority	4	8	24	52	97
Estimated outlays	−43	−135	−275	−467	−693

Outlays and budget authority fall in budget function 600.

TABLE 3.—ESTIMATED CHANGE IN MEDICARE OUTLAYS AND BUDGET AUTHORITY

(In millons of dollars)

Fiscal years	1980	1981	1982	1983	1984
Estimated budget authority		−1	−5	−12	−20
Estimated outlays	5	30	71	102	95

Outlays and budget authority fall in budget function 550.

TABLE 4.—ESTIMATED CHANGE IN OUTLAYS AND BUDGET AUTHORITY FOR FEDERAL INCOME MAINTENANCE PROGRAMS

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Required budget authority:					
SSI	−5	14	44	30	12
AFDC	6	41	60	80	127
Other [1]		−1	−2	−5	−2
Total	1	54	102	105	137
Estimated outlays:					
SSI	−5	14	44	30	12
AFDC	6	41	60	80	127
Other [1]		−1	−2	−5	−2
Total	1	54	102	105	137

[1] Includes medicaid.

This bill would result in changes in future Federal liabilities through changes in existing entitlement programs and would require or permit subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the budget authority needed to cover the estimated outlays that would result from the enactment of H.R. 3236.

6. Basis for estimates: These estimates were done using a preliminary draft of the bill language. The costs of some provisions may change as a result of changes in the language of the bill.

A. Social Security Disability Provisions

The tables below summarize the major provisions affecting the DI trust funds and the other Federal offsets arising as a result of the social security disability provisions:

TABLE A.—ESTIMATED COSTS AND SAVINGS TO THE DISABILITY INSURANCE TRUST FUND OF MAJOR PROVISIONS OF H.R. 3236 [1]

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Combined provisions to limit total family benefit and reduce the number of dropout years for younger workers	−54	−185	−339	−482	−617
65 percent pre-adjudicative review by fiscal year 1983	1	3	−9	−49	−120
Review of continuing disability cases once every 3 years	3	8	22	1	−23
More detailed notices of denials	0	13	18	19	20
Costs to DI of other sections	7	26	33	44	47
Total DI trust fund savings—Estimated outlays	−43	−135	−275	−467	−693

[1] Savings to the DI trust fund are partially offset by costs to other income maintenance and health programs. The impact on these other programs of the sections relating primarily to the DI program is shown in table B. In addition, certain provisions of this bill affect the SSI and AFDC programs. These estimates are shown in subsequent sections of the cost estimate.

TABLE B.—ESTIMATED CHANGE IN OUTLAYS TO THE HI AND SMI TRUST FUNDS AND TO OTHER FEDERAL INCOME MAINTENANCE PROGRAMS FROM PROVISIONS OF H.R. 3236 WHICH PRIMARILY AFFECT THE SSA DISABILITY PROGRAM

(In millions of dollars)

Fiscal years	1980	1981	1982	1983	1984
Cap on family benefits and reduced number of dropout years:					
Federal income maintenance programs:					
Estimated outlays [2]	9	34	60	84	103
Second 12-month trial work period and 3-year extension of medicare:					
HI: Estimated outlays [3]	3	19	47	71	78
SMI: Estimated outlays [3]	2	13	31	48	52
Increased review of initial DI awards and reconsiderations:					
HI: Estimated outlays [3]	0	0	0	−1	−6
SMI: Estimated outlays [3]	0	0	0	−1	−4
Periodic review of continuing DI cases:					
HI: Estimated outlays [3]		−1	−4	−9	−15
SMI: Estimated outlays [3]		−1	−3	−6	−10
Supplemental security income [1 2]	2	16	26	16	4
Total estimated outlays	16	80	157	202	202

[1] These costs to SSI represent administration estimates resulting from provisions to increase the review of DI determinations, implementation of the periodic review of continuing DI cases, and for more detailed denial notices. The bill requires that the Social Security Administration review a stated percentage of all disability determinations made by State agencies for title II. While no such requirement is explicitly stated for title XVI determinations, this estimate assumes that the Social Security Administration will also increase the percentage of title XVI determinations reviewed parallel to that required for title II.

[2] Required budget authority for these income maintenance programs is equal to the increase in estimated outlays. They are included in the summary table 4 above.

[3] Lower net interest into the HI and SMI trust funds results from higher levels of spending. This reduces estimated budget authority for these programs, and is reported in table 3 above.

For the disability provisions given below, increases or decreases in interest to the trust fund will result from these provisions. This will add or subtract from estimated budget authority. The amounts are small for most provisions. However, the amount of budget authority gained for all of the DI provisions as a result of the savings generated by the bill is summarized in table 2 above.

LIMITATIONS ON TOTAL FAMILY BENEFITS IN DISABILITY CASES, AND THE REDUCTION IN THE NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

H.R. 3236, as reported by the Senate Finance Committee, changes the way the maximum family benefit is computed by providing that the total family benefit not exceed 85 percent of average indexed monthly earnings (AIME) (but not to fall below the primary insurance amount) or 160 percent of the worker's primary insurance amount. In addition, the bill also reduces the number of "dropout" years that may be taken for calculating AIME for younger workers. These sections are discussed together.

Close to 30 percent of disabled worker beneficiaries receive dependents benefits and of this group approximately 80 percent would receive reduced family benefits as a result of these sections combined. On average, the benefit for disabled worker beneficiaries with dependents would be lower by 10 to 15 percent under this bill. Most savings under these provisions result from reduced benefits to beneficiaries with dependents. Smaller savings in DI payments are estimated for workers without dependents benefits as a result of the dropout provision. As indicated in the table below, total savings in fiscal year 1980 attributable to reduced benefits to beneficiaries are estimated to be $54 million, rising to $617 million in 1984. Some lower income beneficiaries, however, would receive offsetting increases in income maintenance payments estimated to be $9 million in 1980, rising to $103 million by 1984.

(By fiscal years; in millions of dollars)

	1980	1981	1982	1983	1984
Savings in DI benefits	−54	−185	−339	−482	−617
Offsetting increases in Federal income maintenance payments [1]	9	34	60	84	103
Estimated net savings in Federal outlays	−45	−151	−279	−398	−514

[1] Includes payments for SSI and AFDC. Approximately 70 percent of these costs are SSI costs.

CBO estimates are based on a sample of disabled workers (and their families awarded benefits between 1973 and 1976. In order to project benefits for workers first coming on the rolls in 1980, the earnings histories of the workers in the sample were wage indexed and the new wage indexed formula was applied to these earnings. Benefits were adjusted to account for the higher level of AIME between 1973–76 and 1980, 1981, 1982, and so on using CBO economic assumptions. Benefits were calculated under current (1980) law and under provisions simialr to those in the bill to derive the change in benefits from current law in each year, 1980–84.

The estimate assumes that 150,000 disabled workers with dependents would be awarded benefits in 1980 and that the number of new awards for this category of workers would decline slightly each year, reflecting the general decline in family size. The savings in benefits were applied to each cohort of new awards and adjustments were made for subsequent terminations in family benefits due to various factors—death, aging of children, recovery.

The estimates given do not assume any change in beneficiaries as a result of the reduction in benefits. Based on past experience, however, one could expect some reduction in the number of disabled workers applying for benefits. A CBO study indicates that a 1-percent reduction in benefits has been associated with a 0.85 percent reduction in beneficiaries. Allowing for this factor could lead to an additional reduction in DI outlays of $250–$400 million by 1984.

EXPANSION OF TRIAL WORK PERIOD AND ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

These provision extend the trial work period for disabled workers by an additional 12 months for a total of 24 months. Although cash benefits will still be terminated after the first 12 months as under current law, medicare coverage will be extended for three more years to those who continue to work beyond the first 12 month period. In addition, the provisions grant immediate resumption of medicare coverage (no 24 months waiting period) for those who return to the rolls after a period of time off the rolls.

These provisions are expected to have a neglible effect on cash benefit payments to disabled workers, although they will result in added costs to the medicare hospital insurance (HI) and supplementary medical insurance (SMI) programs. Based on an enactment date of July 1, 1980, benefits in these programs are estimated to increase as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
HI	3	19	47	71	78
SMI	2	13	31	48	52

Medicare costs increase partly because of the expanded entitlement to medicare for those who would normally terminate benefits after their original 12 months trial work period. Based on recent data on the number of workers leaving the rolls after completing a trial work period it is estimated that 20,000 workers would leave the rolls in fiscal years 1980 and become eligible for extended medicare benefits at an estimated average annual cost of $880 in HI and $570 in SMI per eligible disabled worker. These average costs are expected to increase by 9 percent a year.

The remainder of medicare cost increases are incurred because those who normally return to the rolls after a period off the rolls will have their medicare benefits reinstated without a waiting period. About 40,000 workers are estimated to terminate DI benefits in 1980 (based

on recent experience) for reasons other than completion of the trial work period (such as recovery). Of this group an estimated 5,000 persons are expected to return to the rolls within the year, thereby becoming eligible for resumption of medicare.

With respect to the effect of these provisions on DI cash benefit payments, some workers may be encouraged to work beyond the first 12 month trial period because of the continued medicare coverage and this would ultimately produce savings. On the other hand, some workers may find it easier to return to the rolls because of the elimination of the waiting period and this would increase costs. These incentive effects, however, are expected to have only a minimal net effect on the number of disabled worker beneficiaries.

DISABILITY DETERMINATIONS, FEDERAL BEVIEW OF STATE AGENCY DETERMINATIONS

This section directs the Secretary of Health. Education and Welfare to expand the current postadjudicative review of initial DI allowances and denials to a stricter preadjudicative review of all initial disability allowances and denials. In addition there is to be a review of all reconsiderations. This review is to be 15 percent in fiscal year 1981, 35 percent in 1982, and 65 percent in 1983 and thereafter.

The estimate of the net savings resulting from this provision is based on the methodology developed in a June 1978 study by CBO. This study used data on the gross percentages of initial state allowances and denials returned by the Bureau of Disability Insurance to the states and the percentage of those subsequently denied or allowed contained in the print *Disability Insurance Program, 1978*, Social Security Subcommittee of the Committee on Ways and Means, February 1978. From a 6 months review of 6,299 Title II initial disability allowances, 23.6 percent were returned to the states and 22.1 percent of these were denied. A similar sample of denials reviewed showed that 8.1 percent of the cases sampled were returned to the states, and 33.2 percent of these were reversed. Using these percentages, the number of initial claims reversed can be estimated. To the reversal rate of initial determinations, an estimate of the reversals resulting from a review of reconsiderations was made, along with the resultant savings. Allowances were made in the estimate for the man-year costs of implementation, inflation and for normal deterioration from the DI rolls. Individuals who are denied DI benefits also lose the medicare benefits to which they would have been entitled after a 2 year waiting period.

Estimated savings to the DI as well as the hospital insurance and supplementary medical insurance trust funds are as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI benefits	1	3	— 9	—49	—120
HI benefits	0	0	0	—1	—6
SMI benefits	0	0	0	—1	—4

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO CLAIMANTS' RIGHTS

This section requires the Secretary of HEW to provide a detailed explanation to an applicant denied a disability award of the reasons for the denial. These notices will be in a language easily understood by the claimant, and are to include the evidence and reasons as to why the claim was denied. The effective date of this provision is to be January 1, 1981. The administration estimates that increased manpower needs to implement this provision only for DI denials would cost as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI	0	13	18	19	20

CBO agrees that a lengthy response to each applicant could add these amounts to costs. It should be pointed out however, that if this provision were interpreted by the Administration to require only a brief note to the denied DI applicant, then these costs could fall by one-half or more.

PERIODIC REVIEW OF CONTINUING DISABILITY CASES

This section requires all non-permanent continuing disability cases to be reviewed every 3 years. It also will give the Secretary of HEW discretion in reviewing all permanent continuing disability cases. In the middle of 1977, a 100 percent yearly review (since reduced to 50 percent) was instituted of all continuances of "diaried" cases where recovery seemed probable. It is unclear if many (or most of these cases are identical to those to be deemed non-permanent, but it allows a way to estimate a probable savings from this provision (although there is no current formal definition of a nonpermanent DI case). The current review is believed to be partially responsible for the .8 percent increase in terminations since 1976 (about 20,000 cases). If one-half of these terminations were due to this continuing disability review, then by 1983 a total of 10,000 cases would have been terminated which might not have been in the absence of this provision. The estimate assumes a starting date of January 1, 1981, and the fiscal year savings reflect the fact that only one-half of the first year required number of cases will be reviewed. Manpower costs (including 1980 startup costs) are based on Administration estimates of their potential needs to review the additional cases. Assuming an equal implementation over the remaining years in which all cases must be reviewed the 5 years, costs or savings to DI, HI and SMI are estimated as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
DI	3	8	22	1	−23
HI	0	−1	−4	−9	−15
SMI	0	−1	−3	−6	−10

This section can also be interpreted as directing the social security administration to formalize the type of review they are already doing. If that is the case, and the intent of the provision, there conceivably could be no costs or savings to the provision.

STATE DEPOSITS OF OASDHI TAXES

This provision requires state and local governments deposit their FICA taxes no more than 30 days after the end of each month. The staff of the Senate Finance Committee has communicated with CBO that they interpret this provision to mean that if the 30th day should fall on a weekend or federal holiday, this payment should be made on the day before the weekend or holiday.

For the 1980 to 1983 period, the new pattern of revenue payments made by State and local governments will not significantly affect trust fund receipts. In fiscal year 1984, the August payment date (September 30) falls on a Saturday; under the interpretation presented above, there also will be no affect on trust fund receipts. Thus, the 1984 effects of this provision are not included in the total budget authority estimate above.

TAXATION OF EMPLOYEE OASDHI TAXES PAID BY EMPLOYER

Section 209(f) of the Social Security Act provides that any payment by an employer of an employee's FICA tax is excluded from the definition of wages for social security purposes. The Senate Finance Committee has passed legislation altering the definition of wages in calculating social security taxes so as to include these payments as a portion of the employee's earnings.

CBO cannot provide a precise estimate of the revenue affects of the Finance Committee's provisions because the extent of this type of payment practice is unknown at the present time. The Administration, however, has estimated that potential revenue loss from this form of payment if all wage payments were made in this manner could total $6.5 billion in fiscal year 1980.

OTHER PROVISIONS

The other provisions of the bill which have a cost are those providing for deduction of impairment related work expenses, payment for existing medical evidence and certain travel expenses, and for certain studies and demonstration projects. CBO accepts the administration's cost estimates for these provisions.

B. Sections Primarily Affecting SSI

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITIES DESPITE SEVERE MEDICAL IMPAIRMENT

The substantial gainful activity limit under current law and regulations is $280 a month in gross earnings. Any disabled SSI recipient with earnings above this level, after a trial work period, loses his disability status and his SSI eligibility. This provision effectively eliminates the SGA test for disabled recipients. The provision would be effective July 1, 1980 and would continue for 3 years. The following estimate assumes that 4,000 recipients per year remain in the program because of the change in the SGA rules. These recipients also retain medicaid eligibility that otherwise would have been lost. The costs to SSI and medicaid are as follows:

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI	(1)	4	9	7	.....
Medicaid		1	3	2	.....
Total	(1)	5	12	9	.....
Estimated outlays:					
SSI	(1)	4	9	7	.....
Medicaid		1	3	2	.....
Total	(1)	5	12	9	.....

[1] Under $500,000.

EMPLOYMENT OF DISABLED SSI RECIPIENTS IN SHELTERED WORKSHOPS

This section would require that remuneration received by SSI recipients in certain sheltered workshops would be counted as earned income and would thereby be subject to the $65 per month earnings disregard and the 50 percent earnings disregard. A small amount of this income is apparently counted as unearned income today and the earnings disregards are therefore not available. The administration has estimated the full year costs of this provision at $2 million, and there is no additional information currently available on which to revise the estimate. Since the effective date of the provision is July 1, 1980, we have assumed a one-quarter year impact in fiscal year 1980. The cost to SSI is as follows:

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(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	(1)	2	2	2	2
Estimated outlays: SSI	(1)	2	2	2	2

[1] Under $500,000.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN DISABLED CHILD SSI REPIPIENT ATTAINS AGE 18

Under current law, a disabled student between the ages of 18 and 21, living with his parents, has his parent's income and resources deemed to him for the purposes of SSI eligibility and benefit determination. This provision would treat the student, generally as living in the household of another and the benefit would be reduced by one-third. No current recipient would have their benefits lowered because of this provision. The effective date of the provision is July 1, 1980. The estimate is based on administration data on the current caseload. Some new cases will become eligible because of the provision, and these cases could increase the costs above those shown below.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	(1)	1	2	3	3
Estimated outlays: SSI	(1)	1	2	3	3

[1] Under $500,000.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY (SSI ONLY)

This provision allows a deduction from earnings of the cost of attendant care service, medical device, equipment, prostheses, and similar items and service for the purposes of determining substantial gainful activity. The provision would become effective July 1, 1980. The provision would allow a small number of newly eligible persons to participate in SSI and medicaid. The costs shown below reflect administration estimates.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI		5	8	10	11
Medicaid			1	1	2
Total		5	9	11	13
Estimated outlays:					
SSI		5	8	10	11
Medicaid			1	1	2
Total		5	9	11	13

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

This provision requires a three year residence in the U.S. before an alien can establish eligibility for SSI benefits unless: (1) such alien has been lawfully admitted to the U.S. as a refugee; (2) such alien is blind or disabled; and (3) the medical condition which caused his blindness or disability arose after the date of admission to the U.S. The effective date of this provision is January 1, 1980. The SSI costs shown below were provided by the administration on the basis of program data on the number of aliens admitted to the program each year.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority:					
SSI	−4	−18	−25	−47	−60
Medicaid		−2	−6	−8	−4
Total	−4	−20	−31	−55	−64
Estimated outlays:					
SSI	−4	−18	−25	−47	−60
Medicaid		−2	−6	−8	−4
Total	−4	−20	−31	−55	−64

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

When social security disability insurance payments are made retroactively to those who are also SSI recipients, some SSI recipients receive more under both programs than they would have received had the payments been made at the same time. This provision would alter this inequity. Instead of making retroactive DI payments to SSI

recipients, resulting in an overpayment to them, the DI trust fund will reimburse the Treasury to compensate for this potential overpayment of SSI benefits. This payment to the Treasury is, in effect, a savings to SSI for excessive payments they would have made.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority: SSI	−10	−21	−22	−23	−24
Estimated outlays: SSI	−10	−21	−22	−23	−24

C. AFDC Provisions

IMPROVEMENT IN WIN PROGRAM

The provision amends title IV to provide authority to States to develop job search activities to assist work incentive (WIN) registrants to enter unsubsidized employment. The program expects to fund these job search assistance activities with funds reprogrammed from other WIN activities. Therefore, it is expected that no additional cost to the government will be incurred as a result of enactment of this legislation.

Some savings in the form of reduced AFDC grants could occur if the new job search activities allowed under this provision lead to a higher placement rate of WIN participants in unsubsidized employment. However, the extent to which states chose to reprogram funds to job search activities, the amount of these reprogrammed funds, and the effect on placement rates of reprogramming funds from existing activities is unknown. Therefore, no estimate of savings has been made.

MATCHING FOR AFDC ANTI-FRAUD ACTIVITIES

The purpose of this provision is to amend title IV–A of the Social Security Act to provide 75 percent federal matching in expenditures incurred by separate fraud units in investigating and prosecuting cases of fraud under State aid to families with dependent children plans.

Currently, the Federal Government provides a 50 percent match to States for AFDC administrative expenses. This provision would raise that to 75 percent for expenses related to the investigation and prosecution of fraud in the AFDC program. Based on information supplied by State officials, CBO estimates that raising the matching rate to 75 percent would raise the Federal cost by $21 million in fiscal year 1980, assuming the program was fully in place for the whole year. Since this program would only be effective for the latter half of fiscal year 1980, only half of the full year cost or $11 million is projected. Since the States share of anti-fraud administrative costs fall under this provision from 50 percent to 25 percent, States may choose to increase prosecutions of cases with relatively low expected returns. This could add to Federal costs, but we are unable to estimate the increase.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority.....	11	23	25	28	31
Estimated outlays.....	11	23	25	28	31

USE OF IRS TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

This bill amends title IV–D of the Social Security Act authorizing the use of the Internal Revenue Service to collect child support for non-aid to families with dependent children.

CBO's estimate of this provision is based on consultations with the IRS and the Department of HEW. Under this provision, certain child support cases would be referred to the IRS for collections. In a number of cases this would not only result in an increase in the amount of an individual collection but would also keep certain families above the minimum eligibility requirement for AFDC payments. This provision thus would reduce present AFDC rolls and mitigate the size of future rolls, thereby producing savings in the federal budget.[1]

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority.....	−6	−5	−6	−7	−8
Estimated outlays.....	−6	−5	−6	−7	−8

SAFEGUARDING INFORMATION

This provision amends the safeguards restricting disclosure of certain information under the medicaid program, the social services program, and the AFDC program to include governmental audits conducted in connection with program administration. Because resulting activities will be performed with present staff, it is expected that no additional cost to the government will be incurred as a result of this legislation.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY COURT PERSONNEL

The purpose of this provision is to amend title IV–D of the Social Security Act to authorize Federal financial participation in court expenses attributable to the performance of services directly related to the operation of a State plan for child support established pursuant to such title.

[1] This estimate assumes a complimentary provision in H.R. 3434 is not passed. If the complementary provision in H.R. 3434 as passed by the Senate is enacted, the Federal Government would then pay 75 percent of the total cost of 14,500 investigations for which the IRS charges $122.50 per investigation regardless of the outcome. This would result in a $1.3 million cost impact on the Federal budget in fiscal year 1980, which is not reflected in the above estimate.

CBO's estimate of cost is based on the increase in the number of judges and related court personnel necessary to clearup the backlog of child support cases under litigation and to provide timely judgments in the future. This provision does not cover existing expenditures which must be maintained at current levels or additional prosecution costs which are already matched by the Federal Government under a similar law. The bill is expected to yield some savings during the 5 budget years because it accelerates collections through a more adequately staffed court system. CBO's estimate for the 5 fiscal years comes after consultation with the Department of HEW. We have assumed a January 1, 1980 effective date. The fiscal year 1980 cost is therefore a three quarter year impact.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority.....	1	2	3	4	6
Estimated outlays.....	1	2	3	4	6

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

This provision increases Federal matching for the procurement of computer systems to be used in child support programs from 75 percent to 90 percent.

The costs of this provision result from two things: 1) increased matching payments for systems which would have been procured in any case; and 2) increased procurement as a result of the reduction in computer procurement costs to the States.

Reflected in the estimate is the spending pattern which has occurred under the similarly matched medicaid program. The first year costs would be relatively low due to the time lags involved in writing regulations and approving State plans. During the later years, costs would increase as purchasing and installation occurred.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority.....	([1])	1	1	2	3
Estimated outlays.....	([1])	1	1	2	3

[1] Less than $500,000.

AFDC MANAGEMENT INFORMATION SYSTEM

This provision would amend title IV–A of the Social Security Act to grant Federal matching funds for States choosing to install or update computer systems to handle claims processing and information retrieval for their AFDC programs (90 percent matching for plan-

ning and procurement, 75 percent for operation). The estimated Federal cost associated with this provision reflects the general spending pattern that has occurred under a similar federally matched medicaid program. Since all States have computer facilities, the estimate only takes account of Federal expenditures for updating and extending these facilities together with expenditures for the operation of the new parts of the system. The first year cost would be relatively low due to time lags involved in writing regulations and approving State plans. Subsequent fiscal years are expected to show progressively higher costs as more States purchase and install their new computer systems. Long run savings could occur in fiscal years beyond the period of this cost estimated as the result of staff time reductions and more efficient services. It is not known, however, whether these will offset the increased Federal share of installation and operation costs. Estimates of costs were derived after consultations with HEW.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	4	17	27	37	75
Estimated outlays	4	17	27	37	75

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

This provision directs the Secretary of HEW to delay advance payments to States for administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended six months earlier. The amendment would also allow HEW to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

In view of the fact that this provision simply ensures that States will file appropriate reports on a timely basis, only an occasional fluctuation in the pattern of Federal disbursements will occur. However, these fluctuations will not change total expenditures.

Therefore, it is expected that no additional cost to the government will be incurred as a result of enactment of this legislation.

ACCESS TO WAGE INFORMATION FOR THE CHILD SUPPORT PROGRAM

The provision allows child support enforcement programs to have access to Internal Revenue Service Records so as to more adequately provide wage information for purposes of carrying out State plans for child support.

It is expected to result in savings three different ways: 1) it would increase the number of cases handled in the child support enforcement program and consequently result in an increase in collections. Currently, there are approximately 338,000 child support applications per year; 50 percent of which result in an established payment (i.e., a case). This is expected to increase due to attaining these records; 2) more timely and accurate wage information will affect the earlier

establishment of 25 percent of these cases, thus adding approximately one month's payment to each new case, once again increasing collections; and 3) this information will greatly expedite costly administrative procedures thus reducing the average cost of all applications by $25.[1] The end result of these three forces is to jointly reduce future Federal liabilities through increased collections and decreased costs.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Estimated outlays:					
Collections	−1	−1	−1	−1	−1
1-month acceleration	−2	−2	−2	−2	−2
Administrative savings	−3	−4	−4	−4	−5
Total outlays	−6	−6	−7	−7	−8
Required budget authority	−6	−6	−7	−7	−8

Note: Due to rounding columns may not add.

7. Estimate comparison: There is no comprehensive cost estimate of the bill currently available from the Administration.

8. Previous CBO estimates. Certain disability sections are in H.R. 3236 as reported by the Ways and Means Committee, April 23, 1979.

9. Estimate prepared by: Stephen Chaikind, Chuck Seagrave, Al Peden, Todd Drumm (225–776).

10. Estimate approved by:

James L. Blum,
Assistant Director for Budget Analysis.

VII. Changes in Existing Law

In compliance with paragraph 4 of rule XXIX of the Standing rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund

Section 201. (a) * * *

(*j*) *There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the*

[1] This estimate was based on consultations with the Department of HEW.

Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.

(k) Expenditures made for experiments and demonstration projects under section 506(a) of the Social Security Disability Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.

* * * * * * *

Child's Insurance Benefits

(d)(1) Every child (as defined in section 216(e)) of an individual entitled to old-age or disability insurance benefits, or of an individual who dies a fully or currently insured individual if such child—

(A) has filed application for child's insurance benefits,

(B) at the time such application was filed was unmarried and (i) either had not attained the age of 18 or was a full-time student and had not attained the age of 22, or (ii) is under a disability (as defined in section 223(d)) which began before he attained the age of 22, and

(C) was dependent upon such individual—

(i) if such individual is living, at the time such application was filed,

(ii) if such individual has died, at the time of such death, or

(iii) if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits, or (if he has died) until the month of his death, at the beginning of such period of disability or at the time he became entitled to such benefits,

shall be entitled to a child's insurance benefit for each month, beginning with the first month after August 1950 in which such child becomes so entitled to such insurance benefits and ending with the month preceding which ever of the following first occurs—

(D) the month in which such child dies, or marries,

(E) the month in which such child attains the age of 18, but only if he (i) is not under a disability (as so defined) as the time he attains such age, and (ii) is not a full-time student during any part of such month.

(F) if such child was not under a disability (as so defined) at the time he attained the age of 18, the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22,

but only if he was not under a disability (as so defined) in such earlier month; or

(G) if such child was under a disability (as so defined) at the time he attained the age of 18, or if he was not under a disability (as so defined) at such time but was under a disability (as so defined) at or prior to the time he attained (or would attain) the age of 22, [the third month following the month in which he ceases to be under such disability], *or, subject to section 223 (e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222 (c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity,*" or (if later) the earlier of—

[(i)] *(iii)* the first month during no part of which he is a full-time student, or

[(ii)] *(iv)* the month in which he attains the age of 22, but only if he was not under a disability (as so defined) in such earlier month.

Entitlement of any child to benefits under this subsection on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits shall also end with the month before the first month for which such individual is not entitled to such benefits unless such individual is, for such later month, entitled to old-age insurance benefits or unless he dies in such month. No payment under this paragraph may be made to a child who would not meet the definition of disability in section 223(d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity.

(2) Such child's insurance benefit for each month shall, if the individual on the basis of whose wages and self-employment income the child is entitled to such benefit has not died prior to the end of such month, be equal to one-half of the primary insurance amount of such individual for such month. Such child's insurance benefit for each month shall, if such individual has died in or prior to such month, be equal to three-fourths of the primary insurance amount of such individual.

(3) A child shall be deemed dependent upon his father or adopting father or his mother or adopting mother at the time specified in paragraph (1)(C) unless, at such time, such individual was not living with or contributing to the support of such child and—

(A) such child is neither the legitimate nor adopted child of such individual, or

(B) such child has been adopted by some other individual.

For purposes of this paragraph, a child deemed to be a child of a fully or currently insured individual pursuant to section 216(h)(2)(B) or section 216(h)(3) shall be deemed to be the legitimate child of such individual.

(4) A child shall be deemed dependent upon his stepfather or stepmother at the time specified in paragraph (1)(C) if, at such time, the child was living with or was receiving at least one-half of his support from such stepfather or stepmother.

(5) In the case of a child who has attained the age of eighteen and who marries—

(A) an individual entitled to benefits under subsection (a), (b), (e), (f), (g), or (h) of this section or under section 223(a), or

(B) another individual who has attained the age of eighteen and is entitled to benefits under this subsection,

such child's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to a male individual entitled to benefits under section 223(a) or this subsection, the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under section 223(a) or this subsection unless (i) he ceases to be so entitled by reason of his death, or (ii) in the case of an individual who was entitled to benefits under section 223(a), he is entitled, for the month following such last month, to benefits under subsection (a) of this section.

(6) A child whose entitlement to child's insurance benefits on the basis of the wages and self-employment income of an insured individual terminated with the month preceding the month in which such child attained the age of 18, or with a subsequent month, may again become entitled to such benefits (provided no event specified in paragraph (1)(D) has occurred) beginning with the first month thereafter in which he—

(A) (i) is a full-time student or is under a disability (as defined in section 223(d)), and (ii) had not attained the age of 22, or

(B) is under a disability (as so defined) which began before the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability,

but only if he has filed application for such reentitlement. Such reentitlement shall end with the month preceding whichever of the following first occurs:

(C) the first month in which an event specified in paragraph (1)(D) occurs;

(D) the earlier of (i) the first month during no part of which he is a full-time student, or (ii) the month in which he attains the age or 22, but only if he is not under a disability (as so defined) in such earlier month; or

(E) if he was under a disability (as so defined), the third month following the month in which he ceases to be under such disability or (if later) the earlier of—

(i) the first month during no part of which he is a full-time student, or

(ii) the month in which he attains the age of 22.

(7) For the purposes of this subsection—

(A) A "full-time student" is an individual who is in full-time attendance as a student at an educational institution, as determined by the Secretary (in accordance with regulations pre-

scribed by him) in the light of the standards and practices of the institutions involved, except that no individual shall be considered a "full-time student" if he is paid by his employer while attending an educational institution at the request, or pursuant to a requirement, of his employer.

(B) Except to the extent provided in such regulations, an individual shall be deemed to be a full-time student during any period of nonattendance at an educational institution at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Secretary that he intends to continue to be in full-time attendance at an educational institution immediately following such period. An individual who does not meet the requirement of clause (ii) with respect to such period of nonattendance shall be deemed to have met such requirement (as of the beginning of such period) if he is in full-time attendance at an educational institution immediately following such period.

(C) An "educational institution" is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(D) A child who attains age 22 at a time when he is a full-time student (as defined in subparagraph (A) of this paragraph and without the application of subparagraph (B) of such paragraph) but has not (at such time) completed the requirements for, or received, a degree from a four-year college or university shall be deemed (for purposes of determining whether his entitlement to benefits under this subsection has terminated under paragraph (1)(F) and for purposes of determining his initial entitlement to such benefits under clause (i) of paragraph (1)(B)) not to have attained such age until the first day of the first month following the end of the quarter or semester in which he is enrolled at such time (or, if the educational institution (as defined in this paragraph) in which he is enrolled is not operated on a quarter or semester system, until the first day of the first month following the completion of the course in which he is so enrolled or until the first day of the third month beginning after such time, whichever first occurs).

(8) In the case of—

(A) An individual entitled to old-age insurance benefits (other than an individual referred to in subparagraph (B)), or

(B) an individual entitled to disability insurance benefits, or an individual entitled to old-age insurance benefits who was entitled to disability insurance benefits for the month preceding the first month for which he was entitled to old-age insurance benefits,

a child of such individual adopted after such individual became entitled to such old-age or disability insurance benefits shall be deemed

not to meet the requirements of clause (i) or (iii) of paragraph (1) (C) unless such child—

(C) is the natural child or stepchild of such individual (including such a child who was legally adopted by such individual), or

(D) (i) was legally adopted by such individual in an adoption decreed by a court of competent jurisdiction within the United States,

(ii) was living with such individual in the United States and receiving at least one-half of his support from such individual (I) if he is an individual referred to in subparagraph (A), for the year immediately before the month in which such individual became entitled to old-age insurance benefits or, if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, the month in which such period of disability began, or (II) if he is an individual referred to in subparagraph (B), for the year immediately before the month in which began the period of disability of such individual which still exists at the time of adoption (or, if such child was adopted by such individual after such individual attained age 65, the period of disability of such individual which existed in the month preceding the month in which he attained age 65), or the month in which such individual became entitled to disability insurance benefit, or (III) if he is an individual referred to in either subparagraph (A) or subparagraph (B) and the child is the grandchild of such individual or his or her spouse, for the year immediately before the month in which such child files his or her application for child's insurance benefits, and

(iii) had not attained the age of 18 before he began living with such individual.

In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of birth of such child.

(9) (A) A child who is a child of an individual under clause (3) of the first sentence of section 216(e) and is not a child of such individual under clause (1) or (2) of such first sentence shall be deemed not to be dependent on such individual at the time specified in subparagraph (1)(C) of this subsection unless (i) such child was living with such individual in the United States and receiving at least one-half of his support from such individual (I) for the year immediately before the month in which such individual became entitled to old-age insurance benefits or disability insurance benefits or died, or (II) if such individual had a period of disability which continued until he had become entitled to old-age insurance benefits, or disability insurance benefits, or died, for the year immediately before the month in which such period of disability began, and (ii) the period during which such child was living with such individual began before the child attained age 18.

(B) In the case of a child who was born in the one-year period during which such child must have been living with and receiving at least one-half of his support from such individual, such child shall be deemed to meet such requirements for such period if, as of the close of such period, such child has lived with such individual in the United States and received at least one-half of his support from such individual for substantially all of the period which begins on the date of such child's birth.

Widow's Insurance Benefits

(e)(1) The widow (as defined in section 216(c)) and every surviving divorced wife (as defined in section 216(d)) of an individual who died a fully insured individual, if such widow or such surviving divorced wife—

(A) is not married,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (5),

(C)(i) has filed application for widow's insurance benefits, or was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which he died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223, or

(ii) was entitled, on the basis of such wages and self-employment income, to mother's insurance benefits for the month preceding the month in which she attained age 65, and

(D) is not entitled to old-age insurance benefits or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of such deceased individual, shall be entitled to a widow's insurance benefit for each month, beginning with—

(E) if she satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which she becomes so entitled to such insurance benefits, or

(F) if she satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after her waiting period (as defined in paragraph (6)) in which she becomes so entitled to such insurance benefits, or

(ii) the first month during all of which she is under a disability and in which she becomes so entitled to such insurance benefits, but only if she was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (5) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: she remarries, dies, becomes entitled to an old-age insurance benefit equal to or exceeding the primary insurance amount of such deceased individual, or, if she became entitled to

such benefits before she attained age 60, [the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month).] *subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.*

(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (B) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of such deceased individual. If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f)(5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which he was receiving (or would upon application have received) for the month prior to the month in which he died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w) the number of increment months shall include any month in the months of the calendar year in which he died, prior to the month in which he died, which satisfy the conditions in paragraph (2) of such subsection (w).

(B) If the deceased individual (on the basis of whose wages and self-employment income a widow or surviving divorced wife is entitled to widow's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widow's insurance benefit of such widow or surviving divorced wife for any month shall, if the amount of the widow's insurance benefit of such widow or surviving divorced wife (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased individual would have been entitled (after application of subsection (q)) for such month if such individual were still living and section 215(f)(5) or (6) were applied, where applicable, and

(ii) 82½ percent of the primary insurance amount of such deceased individual,

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(3) If a widow, before attaining age 60, or a surviving divorced wife, marries—

(A) an individual entitled to benefits under subsection (f) or (h) of this section, or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widow's or surviving divorced wife's entitlement to benefits under this subsection shall, not withstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage; except that, in the case of such a marriage to an individual entitled to benefits under subsection (d), the preceding provisions of this paragraph shall not apply with respect to benefits for months after the last month for which such individual is entitled to such benefits under subsection (d) unless he ceases to be so entitled by reason of his death.

(4) If a widow, after attaining age 60, marries, such marriage shall for purposes of paragraph (1), be deemed not to have occurred.

(5) The period referred to in paragraph (1)(B)(ii), in the case of any widow or surviving divorced wife, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income her benefits are or would be based, or

(B) the last month for which she was entitled to mother's insurance benefits on the basis of the wages and self-employment income of such individual, or

(C) the month in which a previous entitlement to widow's insurance benefits on the basis of such wages and self-employment income terminated because her disability had ceased,

and ending with the month before the month in which she attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(6) The waiting period referred to in paragraph (1)(F), in the case of any widow or surviving divorced wife, is the earliest period of five consecutive calendar months—

(A) throughout which she has been under a disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which her application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (5) begins.

(7) In the case of an individual entitled to monthly insurance benefits payable under this section for any month perior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

(8)(A) The amount of a widow's insurance benefit for each month as determined (after application of the provisions of subsections (q) and (k), paragraph (2) (B), and paragraph (4)) shall be reduced

(but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity, such service did not constitute "employment" as defined in section 210.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

Widower's Insurance Benefits

(f)(1) The widower (as defined in section 216(g)) of an individual who died a full insured individual, if such widower—

(A) has not remarried,

(B)(i) has attained age 60, or (ii) has attained age 50 but has not attained age 60 and is under a disability (as defined in section 223(d)) which began before the end of the period specified in paragraph (6),

(C) has filed application for widower's insurance benefits or was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which she died, and (I) has attained age 65 or (II) is not entitled to benefits under subsection (a) or section 223,

(D) is not entitled to old-age insurance benefits, or is entitled to old-age insurance benefits each of which is less than the primary insurance amount of his deceased wife,

shall be entitled to a widower's insurance benefit for each month, beginning with—

(E) if he satisfies subparagraph (B) by reason of clause (i) thereof, the first month in which he becomes so entitled to such insurance benefits, or

(F) if he satisfies subparagraph (B) by reason of clause (ii) thereof—

(i) the first month after his waiting period (as defined in paragraph (7)) in which he becomes so entitled to such insurance benefits, or

(ii) the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was previously entitled to insurance benefits under this subsection on the basis of being under a disability and such first month occurs (I) in the period specified in paragraph (6) and (II) after the month in which a previous entitlement to such benefits on such basis terminated,

and ending with the month preceding the first month in which any of the following occurs: he remarries, dies, or becomes entitled to an old-

age insurance benefit equal to or exceeding the primary insurance amount of his deceased wife, or if he became entitled to such benefits before he attained age 60, [the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).], *subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.*

(2)(A) The amount of widower's insurance benefit for each month (as determined after application of the provisions of subsections (k) and (q), paragraph (3)(B), and paragraph (5)) shall be reduced (but not below zero) by an amount equal to the amount of any monthly periodic benefit payable to such widower for such month which is based upon his earnings while in the service of the Federal Government or any State (or any political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity, such service did not constitute "employment" as defined in section 210.

(B) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Secretary) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term "periodic benefit" includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

(4)(A) Except as provided in subsection (q), paragraph (2), of this subsection, and subparagraph (B) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined after application of the following sentence) of his deceased wife. If such deceased individual was (or upon application would have been) entitled to an old-age insurance benefit which was increased (or subject to being increased) on account of delayed retirement under the provisions of subsection (w), then, for purposes of this subsection, such individual's primary insurance amount, if less than the old-age insurance benefit (increased, where applicable, under section 215(f)(5) or (6) and under section 215(i) as if such individual were still alive in the case of an individual who has died) which she was receiving (or would upon application have received) for the month prior to the month in which she died, shall be deemed to be equal to such old-age insurance benefit, and (notwithstanding the provisions of paragraph (3) of such subsection (w)) the number of increment months shall include any month in the months of the calendar year in which she died, prior to the month in which

she died, which satisfy the conditions in paragraph (2) of such subsection (w).

(B) If the deceased wife (on the basis of whose wages and self-employment income a widower is entitled to widower's insurance benefits under this subsection) was, at any time, entitled to an old-age insurance benefit which was reduced by reason of the application of subsection (q), the widower's insurance benefit of such widower for any month shall, if the amount of the widower's insurance benefit of such widower (as determined under subparagraph (A) and after application of subsection (q)) is greater than—

(i) the amount of the old-age insurance benefit to which such deceased wife would have been entitled (after application of subsection (q)) for such month if such wife were still living and section 215(f) (5) or (6) were applied, where applicable: and

(ii) 82½ percent of the primary insurance amount of such deceased wife:

be reduced to the amount referred to in clause (i), or (if greater) the amount referred to in clause (ii).

(4) If a widower, before attaining age 60, remarries—

(A) an individual entitled to benefits under subsection (b), (e), (g), or (h), or

(B) an individual who has attained the age of eighteen and is entitled to benefits under subsection (d),

such widower's entitlement to benefits under this subsection shall, notwithstanding the provisions of paragraph (1) but subject to subsection (s), not be terminated by reason of such marriage.

(5) If a widower, after attaining the age of 60, marries, such marriage shall, for purposes of paragraph (1), be deemed not to have occurred.

(6) The period referred to in paragraph (1)(B)(ii), in the case of any widower, is the period beginning with whichever of the following is the latest:

(A) the month in which occurred the death of the fully insured individual referred to in paragraph (1) on whose wages and self-employment income his benefits are or would be based, or

(B) the month in which a previous entitlement to widower's insurance benefits on the basis of such wages and self-employment income terminated because his disability had ceased,

and ending with the month before the month in which he attains age 60, or, if earlier, with the close of the eighty-fourth month following the month with which such period began.

(7) The waiting period referred to in paragraph (1)(F), in the case of any widower, is the earliest period of five consecutive calendar months—

(A) throughout which he has been under disability, and

(B) which begins not earlier than with whichever of the following is the later: (i) the first day of the seventeenth month before the month in which his application is filed, or (ii) the first day of the fifth month before the month in which the period specified in paragraph (6) begins.

(8) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the

Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made.

* * * * * * *

Application for Monthly Insurance Benefits

(j)(1) Subject to the limitations contained in paragraph (4), an individual who would have been entitled to a benefit under subsection (a), (b), (c), (d), (e), (f), (g), or (h) for any month after August 1950 had he filed application therefor prior to the end of such month shall be entitled to such benefit for such month if he files application therefor prior to the end of the twelfth month immediately succeeding such month. Any benefit under this title for a month prior to the month in which application is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such application, the Secretary has certified for payment for such prior month.

[(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application. If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.]

(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).

(3) Notwithstanding the provisions of paragraph (1), an individual may, at his option, waive entitlement to any benefit referred to in paragraph (1) for any one or more consecutive months (beginning with the earliest month for which such individual would otherwise be entitled to such benefit) which occurs before the month in which such individual files application for such benefit; and, in such case, such individual shall not be considered as entitled to such benefits for any such month or months before such individual filed such application. An individual shall be deemed to have waived such entitlement for any such month for which such benefit would, under the second sentence of paragraph (1), be reduced to zero.

(4)(A) Except as provided in subparagraph (B), no individual shall be entitled to a monthly benefit under subsection (a), (b), (c), (e), or (f) for any month prior to the month in which he or she files an application for benefits under that subsection if the effect of entitle-

ment to such benefit would be to reduce, pursuant to subsection (q), the amount of the monthly benefit to which such individual would otherwise be entitled for the month in which such application is filed.

(B)(i) If the individual applying for retroactive benefits is applying for such benefits under subsection (a), and there are one or more other persons who would (except for subparagraph (A)) be entitled for any month, on the basis of the wages and self-employment income of such individual and because of such individual's entitlement to such retroactive benefits, to retroactive benefits under subsection (b), (c), or (d) not subject to reduction under subsection (q), then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(ii) If the individual applying for retroactive benefits is a widow, surviving divorced wife, or widower and is under a disability (as defined in section 223(d)), and such individual would, except for subparagraph (A), be entitled to retroactive benefits as a disabled widow or widower or disabled surviving divorced wife for any month before attaining the age of 60, then subparagraph (A) shall not apply with respect to such month or any subsequent month.

(iii) If the individual applying for retroactive benefits has excess earnings (as defined in section 203(f)) in the year in which he or she files an application for such benefits which could, except for subparagraph (A), be charged to months in such year prior to the month of application, then subparagraph (A) shall not apply to so many of such months immediately preceding the month of application as are required to charge such excess earnings to the maximum extent possible.

(iv) As used in this subparagraph, the term "retroactive benefits" means benefits to which an individual becomes entitled for a month prior to the month in which application for such benefits is filed.

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Reduction of Insurance Benefits

Maximum Benefits

Sec. 203. (a)(1) In the case of an individual whose primary insurance amount has been computed or recomputed under section 215(a)(1) or (4), or section 215(d), as in effect after December 1978, the total monthly benefits to which beneficiaries may be entitled under section 202 or 223 for a month on the basis of the wages and self-employment income of such individual shall, except as provided by paragraphs [(3)] *and (6)* (but prior to any increases resulting from the application of paragraph (2)(A)(ii)(III) of section 215(i)), be reduced as necessary so as not to exceed—

(A) 150 percent of such individual's primary insurance amount to the extent that it does not exceed the amount established with respect to this subparagraph by paragraph (2),

(B) 272 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (A) but does not exceed the amount established with respect to this subparagraph by paragraph (2),

(C) 134 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect

to subparagraph (B) but does not exceed the amount established with respect to this subparagraph by paragraph (2), and

(D) 175 percent of such individual's primary insurance amount to the extent that it exceeds the amount established with respect to subparagraph (C).

Any such amount that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.

(2)(A) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming so eligible for such benefits), in the calendar year 1979, the amounts established with respect to subparagraphs (A), (B), and (C) of paragraph (1) shall be $230, $332, and $433, respectively.

(B) For individuals who initially become eligible for old-age or disability insurance benefits , or who die (before becoming so eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established for the calendar year 1979 by subparagraph (A) of this paragraph and the quotient obtained under subparagraph (B)(ii) of section 215(a)(1), with such product being rounded in the manner prescribed by section 215(a)(1)(B)(iii).

(C) In each calender year after 1978 the Secretary shall publish in the Federal Register, on or before November 1, the formula which (except as provided in section 215(i)(2)(D)) is to be applicable under this paragraph to individuals who become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in the following calendar year.

(D) A year shall not be counted as the year of an individual's death or eligibility for purposes of this paragraph or paragraph [(7)] *(8)* in any case where such individual was entitled to a disability insurance benefit for any of the 12 months immediately preceding the month of such death or eligibility (but there shall be counted instead the year of the individual's eligibility for the disability insurance benefits to which he was entitled during such 12 months).

(3)(A) When an individual who is entitled to benefits on the basis of the wages and self-employment income of any insured individual and to whom this subsection applies would (but for the provisions of section 202(k)(2)(A)) be entitled to child's insurance benefits for a month on the basis of the wages and self-employment income of one or more other insured individuals, the total monthly benefits to which all beneficiaries are entitled on the bases of such wages and self-employment income shall not be reduced under this subsection to less than the smaller of—

(i) the sum of the maximum amounts of benefits payable on the basis of the wages and self-employment income of all such insured individuals, or

(ii) an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230.

(B) When two or more persons were entitled (without the application of section 202(j)(1) and section 223(b)) to monthly benefits under section 202 or 223 for January 1971 or any prior month on the

basis of the wages and self-employment income of such insured individual and the provisions of this subsection as in effect for any such month were applicable in determining the benefit amount of any persons on the basis of such wages and self-employment income, the total of benefits for any month after January 1971 shall not be reduced to less than the largest of—

(i) the amount determined under this subsection without regard to this subparagraph.

(ii) the largest amount which has been determined for any month under this subsection for persons entitled to monthly benefits on the basis of such insured individual's wages and self-employment income, or

(iii) if any persons are entitled to benefits on the basis of such wages and self-employment income for the month before the effective month (after September 1972) of a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under the provisions of section 215(i), an amount equal to the sum of amounts derived by multiplying the benefit amount determined under this title (excluding any part thereof determined under section 202(w)) for the month before such effective month (including this subsection, but without the application of section 222(b), section 202(q), and subsections (b), (c), and (d) of this section), for each such person for such month, by a percentage equal to the percentage of the increase provided under such benefit increase (with any such increased amount which is not a multiple of $0.10 being rounded to the next higher multiple of $0.10);

but in any such case (I) subparagraph (A) of this paragraph shall not be applied to such total of benefits after the application of clause (ii) or (iii), and (II) if section 202(k)(2)(A) was applicable in the case of any such benefits for a month, and ceases to apply for a month after such month, the provisions of clause (ii) or (iii) shall be applied, for and after the month in which section 202(k)(2)(A) ceases to apply, as though subparagraph (A) of this paragraph had not been applicable to such total of benefits for the last month for which clause (ii) or (iii) was applicable.

(C) When any of such individuals is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) or as a surviving divorced spouse under section 202 (e) or (f) for any month, the benefit to which he or she is entitled on the basis of the wages and self-employment income of such insured individual for such month shall be determined without regard to this subsection, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the wages and self-employment income of such insured individual shall be determined as if no such divorced spouse or surviving divorced spouse were entitled to benefits for such month.

(4) In any case in which benefits are reduced pursuant to the preceding provisions of this subsection, the reduction shall be made after any deductions under this section and after any deductions under section 222(b). Whenever a reduction is made under this subsection in the total of monthly benefits to which individuals are entitled for any month on the basis of the wages and self-employment income of an insured individual, each such benefit other than the old-age or disability insurance benefit shall be proportionately decreased.

(5) Notwithstanding any other provision of law, when—

(A) two or more persons are entitled to monthly benefits for a particular month on the basis of the wages and self-employment income of an insured individual and (for such particular month) the provisions of this subsection are applicable to such monthly benefits, and

(B) such individual's primary insurance amount is increased for the following month under any provision of this title,

then the total of monthly benefits for all persons on the basis of such wages and self-employment income for such particular month, as determined under the provisions of this subsection, shall for purposes of determining the total monthly benefits for all persons on the basis of such wages and self-employment income for months subsequent to such particular month be considered to have been increased by the smallest amount that would have been required in order to assure that the total of monthly benefits payable on the basis of such wages and self-employment income for any such subsequent month will not be less (after the application of the other provisions of this subsection and section 202(q)) than the total of monthly benefits (after the application of the other provisions of this subsection and section 202 (q)) payable on the basis of such wages and self-employment income for such particular month.

(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

(B) 160 percent of such individual's primary insurance amount.

[(6)**]** *(7)* In the case of any individual who is entitled for any month to benefits based upon the primary insurance amounts of two or more insured individuals, one or more of which primary insurance amounts were determined under section 215(a) or 215(d) as in effect (without regard to the table contained therein) prior to January 1979 and one or more of which primary insurance amounts were determined under section 215(a) (1) or (4), or section 215(d), as in effect after December 1978, the total benefits payable to that individual and all other individuals entitled to benefits for that month based upon those primary insurance amounts shall be reduced to an amount equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1) for that month with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefits base determined under section 230 for the year in which that month occurs.

[(7)**]** *(8)* Subject to paragraph **[**(6)**]** *(7)*, this subsection as in effect in December 1978 shall remain in effect with respect to a pri-

mary insurance amount computed under section 215(a) or (d), as in effect (without regard to the table contained therein) in December 1978, except that a primary insurance amount so computed with respect to an individual who first becomes eligible for an old-age or disability insurance benefit, or dies (before becoming eligible for such a benefit), after December 1978, shall instead be governed by this section as in effect after December 1978.

[(8)] *(9)* When—

(A) one or more persons were entitled (without the application of section 202(j)(1)) to monthly benefits under section 202 for May 1978 on the basis of the wages and self-employment income of an individual,

(B) the benefit of at least one such person for June 1978 is increased by reason of the amendments made by section 204 of the Social Security Amendments of 1977; and

(C) the total amount of benefits to which all such persons are entitled under such section 202 are reduced under the provisions of this subsection (or would be so reduced except for the first sentence of section 203(a)(4)),

then the amount of the benefit to which each such person is entitled for months after May 1978 shall be increased (after such reductions are made under this subsection) to the amount such benefits would have been if the benefit of the person or persons referred to in subparagraph (B) had not been so increased.

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Overpayments and Underpayments

Sec. 204. (a) * * *

(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132.

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Evidence, Procedure, and Certification for Payment

Sec. 205. (a) The Secretary shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. *Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, and understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason, or reasons upon which it is based.* Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced

mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

* * * * * * *

(g) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, [if supported by substantial evidence] *unless found to be arbitrary and capricious*, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) hereof, the court shall review only the question of conformity with such regulations and the validity of such regulations. [The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary.] *The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;* and

the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

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Definition of Wages

Sec. 209. For the purposes of this title, the term "wages" means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remnueration paid after 1950 for employment, including the cash value of all remuneration paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

* * * * * * *

(f) The payment by an employer (without deduction from the remuneration of the employee) [(1) of the tax imposed upon an employee under section 1400 of the Internal Revenue Code of 1939, or in the case of a payment after 1954 under section 3101 of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law;] *(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 for wages paid for domestic service in a private home of the employer, or (2) of any payment required from an employee under a State unemployment compensation law;*

* * * * * * *

Computation of Primary Insurance Amount

Sec. 215.

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Average Indexed Monthly Earnings; Average Monthly Wage

(b)(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

(B) the number of months in those years.

[(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the

number of an individual's benefit computation years may not be less than two.]

(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

(ii) in the case of an individual who is entitled to disability insurance benefits, by one year or, if greater, the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.

* * * * * * *

Cost-of-Living Increases in Benefits

(i)(1) For purposes of this subsection—

(A) the term "base quarter" means (i) the calendar quarter ending on March 31 in each year after 1974, or (ii) any other calendar quarter in which occurs the effective months of a general benefit increase under this title;

(B) the term "cost-of-living computation quarter" means a base quarter, as defined in subparagraph (A)(i), in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 3 per centum, such Index in the later of (i) the last prior cost-of-living computation quarter which was established under this subparagraph, or (ii) the most recent calendar quarter in which occurred the effective month of a general benefit increase under this title; except that there shall be no cost-of-living computation quarter in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year such a general benefit increase becomes effective; and

(C) the Consumer Price Index for a base quarter, a cost-of-living computation quarter, or any other calendar quarter shall be the arithmetical mean of such index for the 3 months in such quarter.

(2)(A)(i) The Secretary shall determine each year beginning with 1975 (subject to the limitation in paragraph (1)(B) whether the base quarter (as defined in paragraph (1)(A)(i)) in such year is a cost-of-living computation quarter.

(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

(I) the benefit amount to which individuals are entitled for that month under section 227 or 228,

(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title (including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph), and

(III) the amount of total monthly benefits based on any primary insurance amount which is permitted under section 203 (and such total shall be increased, unless otherwise so increased under another provision of this title, at the same time as such primary insurance amount) or, in the case of a primary insurance amount computed under subsection (a) as in effect without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a) [(6) and (7)] *(7) and (8)* as in effect after December 1978.

The increase shall be derived by multiplying each of the amounts described in subdivisions (I), (II), and (III) (including each of those amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B); and any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. Any increase under this subsection in a primary insurance amount determined under subparagraph (C)(i)(II) of subsection (a)(1) shall be applied after the initial determination of such primary insurance amount under that subparagraph (with the amount of such increase, in the case of an individual who becomes eligible for old-age or disability insurance benefits or dies in a calendar year after 1979, being determined from the range of possible primary insurance amounts published by the Secretary under the last sentence of subparagraph (D)).

* * * * * * *

(v) Notwithstanding clause (i)(v), no primary insurance amount shall be less than that provided under section 215(a)(1) amount regard to subparagraph (C)(i)(I) thereof, as subsequently increased by applicable increases under this section.

(B) The increase provided by subparagraph (A) with respect to a particular cost-of-living computation quarter shall apply in the case of monthly benefits under this title for months after May of the calendar year in which occurred such cost-of-living computation quarter, and in the case of lump-sum death payments with respect to deaths occurring after May of such calendar year.

(C)(i) Whenever the level of the Consumer Price Index as published for any month exceeds by 2.5 percent or more the level of such index for the most recent base quarter (as defined in paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter, the Secretary shall (within 5 days after such publication) report the amount of such excess to the House Committee on Ways and Means and the Senate Committee on Finance.

(ii) Whenever the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall notify the House Committee on Ways and Means and the Senate Committee on Finance of such determination within 30 days after the close of such quarter, indicating the amount of the benefit increase to be provided, his estimate of the extent to which the cost of such increase would be met by an increase in the contribution and benefit base under section 230 and the estimated amount of the increase in such base, the actuarial estimates of the effect of such increase, and the actuarial assumptions and methodology used in preparing such estimates.

(D) If the Secretary determines that a base quarter in a calendar year is also a cost-of-living computation quarter, he shall publish in the Federal Register within 45 days after the close of such quarter a determination that a benefit increase is resultantly required and the percentage thereof. He shall also publish in the Federal Register at that time (i) a revision of the range of the primary insurance amounts which are possible after the application of this subsection based on the dollar amount specified in subparagraph (C)(i)(II) of subsection (a)(1) (with such revised primary insurance amounts constituting the increased amounts determined for purposes of such subparagraph (C)(i)(II) under this subsection), or specified in subsection (a)(3) as in effect prior to 1979, and (ii) a revision of the range of maximum family benefits which correspond to such primary insurance amounts (with such maximum benefits being effective notwithstanding section 203(a) except for paragraph (3)(D) thereof (or paragraph (2) thereof as in effect prior to 1979)). *Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).*.

(3) As used in this subsection, the term "general benefit increase under this title" means an increase (other than an increase under this subsection) in all primary insurance amounts on which monthly insurance benefits under this title are based.

(4) This subsection as in effect in December 1978 shall continue to apply to subsections (a) and (d), as then in effect, for purposes of computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection (but the application of this subsection in such cases shall be modified by the application of subdivision (I) in the last sentence of paragraph (4) of that subsection)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection as then in effect.

Other Definitions

Sec. 216. For the purposes of this title—

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Disability; Period of Disability

(i)(1) Except for purposes of section 202(d), 202(e), 202(f), 223, and 225, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (3), (4), and (5) of section 223(d) shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this title shall be construed as authorizing the Secretary or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

(2)(A) The term "period of disability" means a continuous period (beginning and ending as hereinafter provided in this subsection) during which an individual was under a disability (as defined in paragraph (1)), but only if such period is of not less than five full calendar months' duration or such individual was entitled to benefits under section 223 for one or more months in such period.

(B) No period of disability shall begin as to any individual unless such individual files an application for a disability determination with respect to such period; and no such period shall begin as to any individual after such individual attains the age of 65.

In the case of a deceased individual, the requirement of an application under the preceding sentence may be satisfied by an application for a disability determination filed with respect to such individual within 3 months after the month in which he died.

(C) A period of disability shall begin—

(i) on the day the disability began, but only if the individual satisfies the requirements of paragraph (3) on such day; or

(ii) if such individual does not satisfy the requirements of paragraph (3) on such day, then on the first day of the first quarter thereafter in which he satisfies such requirements.

(D) A period of disability shall end with the close of whichever of the following months is the earlier: (i) the month preceding the month in which the individual attains age 65, or (ii) the second month following the month in which the disability ceases.

(E) Except as is otherwise provided in subparagraph (F), no application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D) as the month in which the period of disability ends (determined without regard to subparagraph (B) and this subparagraph) shall be accepted as an application for purposes of this paragraph.

(F) An application for a disability determination which is filed more than 12 months after the month prescribed by subparagraph (D)

as the month in which the period of disability ends (determined without regard to subparagraphs (B) and (E)) shall be accepted as an application for purposes of this paragraph if—

(i) in the case of an application filed by or on behalf of an individual with respect to a disability which ends after the month in which the Social Security Amendments of 1967 is enacted, such application is filed not more than 36 months after the month in which such disability ended, such individual is alive at the time the application is filed, and the Secretary finds in accordance with regulations prescribed by him that the failure of such individual to file an application for a disability determination within the time specified in subparagraph (E) was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application, and

(ii) in the case of an application filed by or on behalf of an individual with respect to a period of disability which ends in or before the month in which the Social Security Amendments of 1967 as enacted,

(I) such application is filed not more than 12 months after the month in which the Social Security Amendments of 1967 is enacted,

(II) a previous application for a disability determination has been filed by or on behalf of such individual (1) in or before the month in which the Social Security Amendments of 1967 is enacted, and (2) not more than 36 months after the month in which his disability ended, and

(III) the Secretary finds in accordance with regulations prescribed by him, that the failure of such individual to file an application within the then specified time period was attributable to a physical or mental condition of such individual which rendered him incapable of executing such an application.

In making a determination under this subsection, with respect to the disability or period of disability of any individual whose application for a determination thereof is accepted solely by reason of the provisions of this subparagraph (F), the provisions of this subsection (other than the provisions of this subparagraph) shall be applied a such provisions are in effect at the time such determination is made.

(G) An application for a disability determination filed before the first day on which the applicant satisfies the requirements for a period of disability under this subsection shall be deemed a valid application *(and shall be deemed to have been filed on such first day)* only if the applicant satisfies the requirements for a period of disability before the Secretary makes a final decision on the application[.] *and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).* [If upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed on such first day.]

(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter; and

(B) (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or

(ii) if such quarter ends before he attains (or would attain) age 31 not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, except that the provisions of subparagraph (B) of this paragraph shall not apply in the case of an individual who is blind (within the meaning of "blindness" as defined in paragraph (1)).

For purposes of subparagraph (B) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage.

(4) [Repealed.]

Voluntary Agreements for Coverage of State and Local Employees

* * * * * * *

Payments and Reports by States

(e) (1) Each agreement under this section shall provide—

[(A) that the State will pay to the Secretary of the Treasury, at such time or times as the Secretary of Health, Education, and Welfare may by regulations prescribe, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services of employees covered by the agreement constituted employment as defined in section 3121 of such code; and]

(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and

(B) that the State will comply with such regulations relating to payments and reports as the Secretary of Health, Education, and Welfare may prescribe to carry out the purposes of this section.

(2) Where—

(A) an individual in any calendar year performs services to which an agreement under this section is applicable (i) as the employee of two or more political subdivisions of a State or (ii) as the employee of a State and one or more political subdivisions of such State; and

(B) such State provides all of the funds for the payment of those amounts referred to in paragraph (1)(A) which are equivalent to the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to wages paid to such individual for such services; and

(C) the political subdivision or subdivisions involved do not reimburse such State for the payment of such amounts or, in the case of services described in subparagraph (A)(ii), for the payment of so much of such amounts as is attributable to employment by such subdivisions or subdivisions;

then, notwithstanding paragraph (1), the agreement under this section with such State may provide (either in the original agreement or by a modification thereof) that the amounts referred to in paragraph (1)(A) may be computed as though the wages paid to such individual for the services referred to in clause (A) of this paragraph were paid by one political subdivision for services performed in its employ; but the provisions of this paragraph shall be applicable only where such State complies with such regulations as the Secretary may prescribe to carry out the purposes of this paragraph. The preceding sentence shall be applicable with respect to wages paid after an effective date specified in such agreement or modification, but in no event with respect to wages paid before (i) January 1, 1957, in the case of an agreement or modification which is mailed or delivered by other means to the Secretary before January 1, 1962, or (ii) the first day of the year in which the agreement or modification is mailed or delivered by other means to the Secretary, in the case of an agreement or modification which is so mailed or delivered on or after January 1, 1962.

* * * * * * *

Disability Determinations

Sec. 221. [(a) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsection (c) and (d), any such determinations shall be the determination of the Secretary for purposes of this title.

[(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determination referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request.

[(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such dis-

ability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.]

(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries or facilities for making disability determinations,

(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function.

(D) fiscal control procedures that the State agency may be required to adopt,

(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination process, and

(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations.

(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.

(d) Any individual dissatisfied with any determination under subsection (a), *(b)*, (c), or (g) shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b) with respect to decisions of the Secretary, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(e) Each State [which has an agreement with the Secretary] *which is making disability determinations under subsection (a)(1)* under this section shall be entitled to receive from the Trust Funds, in advance or by way of reimbursement, [as may be mutually agreed upon] *as determined by the Secretary*, the cost to the State of [carrying out the agreement under this section] *making disability determinations under subsection (a)(1)*. The Secretary shall from time to time certify such amount as is necessary for this purpose to the Managing Trustee, reduced or increased, as the case may be, by any sum (for which adjustment hereunder has not previously been made) by which the amount certified for any prior period was greater

or less than the amount which should have been paid to the State under this subsection for such period; and the Managing Trustee, prior to audit or settlement by the General Accounting Office, shall make payment from the Trust Funds at the time or times fixed by the Secretary, in accordance with such certification. Appropriate adjustments between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund with respect to the payments made under this subsection shall be made in accordance with paragraph (1) of subsection (g) of section 201 (but taking into account any refunds under subsection (f) of this section) to insure that the Federal Disability Trust Fund is charged with all expenses incurred which are at attributable to the administration of section 223 and the Federal Old-Age and Survivors Insurance Trust Fund is charged with all other expenses.

(f) All money paid to a State under this section shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned to the Treasury of the United States for deposit in the Trust Funds.

(g) In the case of individuals in a State which [has no agreement under subsection (b)] *does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines*, in the case of individuals outside the United States, and in the case of any class or classes of individauls [not included in an agreement under subsection (b)] *for whom no State undertakes to make disability determinations*, the determinations referred to in subsection (a) shall be made by the Secretary in accordance with regulations prescribed by him.

(h) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.

Rehabilitation Services

Referral for Rehabilitation Services

Sec. 222. (a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

Deductions on Account of Refusal to Accept Rehabilitation Services

(b) (1) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benfits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower, or surviving divorced wife who has not attained age 60, or an individual entitled to disability insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under the Vocational Rehabilitation Act, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, or child is entitled, until the total of such deductions equal such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202 (d)).

Period of Trial Work

(c) (1) The term "period of trial work", with respect to an individual entitled to benefits under [section 223 or 202(d)] *section 223, 202 (d), 202(e), or 202(f)*, means a period of months beginning and ending as provided in paragraphs (3) and (4).

(2) For purposes of sections 216(i) and 223, any services rendered by an individual during a period of trial work shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. For purposes of this subsection the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(3) A period of trial work for any individual shall begin with the month in which he becomes entitled to disability insurance benefits, or, in the case of an individual entitled to benefits under section 202(d) who has attained the age of eighteen, with the month in which he becomes entitled to such benefits or the month in which he attains the age of eighteen, whichever is later[.], *or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.* Notwithstanding the preceding sentence, no period of trial work may begin for any individual prior to the beginning of the month following the month in which this paragraph is enacted; and no such period may begin for an individual in a period of disability of such individual in which he had a previous period of trial work.

(4) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(A) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(B) the month in which his disability (as defined in section 223(d)) ceases (as determined after application of paragraph (2) of this subsection).

(5) In the case of an individual who becomes entitled to benefits under section 223 for any month as provided in clause (ii) of subsection (a)(1) of such section, the preceding provisions of this subsection shall not apply with respect to services in any month beginning with the first month for which he is so entitled and ending with the first month thereafter for which he is not entitled to benefits under section 223.

* * * * * * *

Disability Insurance Benefit Payments

Disability Insurance Benefits

Sec. 223. (a)(1) Every individual who—

(A) is insured for disability insurance benefits (as determined under subsection (c)(1)),

(B) has not attained the age of sixty-five,

(C) has filed application for disability insurance benefits, and

(D) is under a disability (as defined in subsection (d))

shall be entitled to a disability insurance benefit (i) for each month beginning with the first month after his waiting period (as defined in subsection (c)(2) in which he becomes so entitled to such insurance benefits, or (ii) for each month beginning with the first month during all of which he is under a disability and in which he becomes so entitled to such insurance benefits, but only if he was entitled to disability

insurance benefits which terminated, or had a period of disability (as defined in section 216(i)) which ceased, within the sixty-month period preceding the first month in which he is under such disability, and ending with the month preceding whichever of the following months is the earliest: the month in which he dies, the month in which he attains age 65, [or the third month following the month in which his disability ceases.] *or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.* No payment under this paragraph may be made to an individual who would not meet the definition of disability in subsection (d) except for paragraph (1)(B) thereof for any month in which he engages in substantial gainful activity, and no payment may be made for such month under subsection (b), (c), or (d) of section 202 to any person on the basis of the wages and self-employment income of such individual. In the case of a deceased individual, the requirement of subparagraph (C) may be satisfied by an application for benefit filed with respect to such individual within 3 months after the month in which he died.

(2) Except as provided in section 202(q) *and section 215(b)(2)(A)(ii)*, such individual's disability insurance benefit for any month shall be equal to his primary insurance amount for such month determined under section 215 as though he had attained age 62, in—

(A) the first month of his waiting period, or

(B) in any case in which clause (ii) of paragraph (1) of this subsection is applicable, the first month for which he becomes entitled to such disability insurance benefits,

and as though he had become entitled to old-age insurance benefits in the month in which the application for disability insurance benefits was filed and he was entitled to an old-age insurance benefit for each month for which (pursuant to subsection (b)) he was entitled to a disability insurance benefit. For the purposes of the preceding sentence, in the case of an individual who attained age 62 in or before the first month referred to in subparagraph (A) or (B) of such sentence, as the case may be, the elapsed years referred to in section 215(b)(3) shall not include the year in which he attained age 62, or any year thereafter.

Filing of Application

(b) An application for disability insurance benefits filed before the first month in which the applicant satisfies the requirements for such benefits (as prescribed in subsection (a)(1)) shall be deemed a valid application *(and shall be deemed to have been filed in such first month)* only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application[.] *and no re-*

quest under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary). [If, upon final decision by the Secretary, or decision upon judicial review thereof, such applicant is found to satisfy such requirements, the application shall be deemed to have been filed in such first month.] An individual who would have been entitled to a disability insurance benefit for any month had he filed application therefor before the end of such month shall be entitled to such benefit for such month if such application is filed before the end of the 12th month immediately succeeding such month.

* * * * * * *

Definition of Disability

(d) (1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202(e) or (f) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability ((for purposes of section 202(e) or (f)) unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof. Notwithstanding the provisions of paragraph ((2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled. *In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.*

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. *Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.*

(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).

* * * * * * *

Suspension of Benefits Based on Disability

Sec. 225. (*a*) If the Secretary, on the basis of information obtained by or submitted to him, believes that an individual entitled to benefits under section 223, or that a child who has attained the age of eighteen and is entitled to benefits under section 202(d), or that a widow or surviving divorced wife who has not attained age 60 and is entitled to benefits under section 202(e), or that a widower who has not attained age 60 and is entitled to benfits under section 202(f), may have ceased to be under a disability, the Secretary may suspend the payment of benefits under such section 202(d), 202(e), 202(f), or 223, until it is determined (as provided in section 221) whether or not such individual's disability has ceased or until the Secretary believes that such disability has not ceased. In the case of any individual whose dis-

ability is subject to determination under an agreement with a State under section 221(b), the Secretary shall promptly notify the appropriate State of his action under this [section] *subsection* and shall request a prompt determination of whether such individual's disability has ceased. For purposes of this [section] *subsection*, the term "disability" has the meaning assigned to such term in section 223(d). Whenever the benefits of an individual entitled to a disability insurance benefit are suspended for any month, the benefits of any individual entitled thereto under subsection (b), (c), or (d) of section 202, on the basis of the wages and self-employment income of such individual, shall be suspended for such month. The first sentence of this [section] *subsection* shall not apply to any child entiled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time student (as defined and determined under section 202(d).

(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

Entitlement to Hospital Insurance Benefits

Sec. 226.

(a) Every individual who—

(1) has attained age 65, and

(2) is entitled to monthly insurance benefits under section 202 or is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the condition specified in paragraph (1), beginning with the first month after June 1966 for which he meets the conditions specified in paragraphs (1) and (2).

(b) Every individual who—

(1) has not attained age 65, and

(2)(A) is entitled to, and has for 24 [consecutive] calendar months been enttiled to, (i) disability insurance benefits under section 223 or (ii) child's insurance benefits under section 202(d) by reason of a disability (as defined in section 223(d)) or (iii) widow's insurance benefits under section 202(e) or widower's insurance benefits under section 202(f) by reason of a disability (as defined in section 223(d)), or (B) is, and has been for not less than 24 [consecutive] months a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1973 or

(II) the twenty-fifth [consecutive] month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (*subject to the last sentence of this subsection*) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65. *For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.*

(c) For purposes of subsection (a)—

(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to have payment made under, and subject to the limitations in, part A of title XVIII on his behalf for inpatient hospital services, post-hospital extended care services, and post-hospital home health services (as such terms are defined in part C of title XVIII) furnished him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814(f)) during such month; except that (A) no such payment may be made for post-hospital extended care services furnished before January 1967, and (B) no such payment may be made for post-hospital extended care services or post-hospital home health services unless the discharge from the hospital required to qualify such services for payment under part A of title XVIII occurred (i) after June 30, 1966, or on or after the first day of the month in which he attains age 65, whichever is later, or (ii) if he was entitled to a hospital insurance benefits pursuant to subsection (b), at a time when he was so entitled; and

(2) an individual shall be deemed entitled to monthly insurance benefits under section 202 or section 223, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been entitled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month.

(d) For purposes of this section, the term "qualified railroad retirement beneficiary" means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 7(d) of the Railroad Retirement Act of 1974. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board as the month in which he ceased to meet the requirements of section 7(d) of the Railroad Retirement Act of 1974.

(e)(1) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of widows and widowers described in paragraph (2)(A)(iii) thereof—

(A) the term "age 60" in sections 202(e)(1)(B)(ii), 202(e)(5), 202(f)(1)(B)(ii), and 202(f)(6) shall be deemed to read "age 65"; and

(B) the phrase "before she attained age 60" in the matter following subparagraph (F) of section 202(e)(1) and the phrase "before he attained age 60" in the matter following subparagraph (F) of section 202(f)(1) shall each be deemed to read "based on a disability".

(2) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual under age 65 who is entitled to benefits under section 202, and who was entitled to widow's insurance benefits or widower's insurance benefits based on disability for the month before the first month in which such individual was so entitled to old-age insurance benefits (but ceased to be entitled to such widow's or widower's insurance benefits upon becoming entitled to such old-age insurance benefits), such individual shall be deemed to have continued to be entitled to such widow's insurance benefits or widower's insurance benefits for and after such first month.

(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b) any disabled widow age 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits) shall, upon application, for such hospital insurance benefits be deemed to have filed for such widow's benefits and shall, upon furnishing proof of such disability prior to July 1, 1974, under such procedures as the Secretary may prescribe, be deemed to have been entitled to such widow's benefits as of the time she would have been entitled to such widow's benefits if she had filed a timely application therefor.

(4) For purposes of determining entitlement to hospital insurance benefits under subsection (b) in the case of an individual described in clause (iii) of subsection (b)(2)(A), the entitlement of such individual to widow's or widower's insurance benefits under section 202(e) or (f) by reason of a disability shall be deemed to be the entitlement to such benefits that would result if such entitlement were determined without regard to the provisions of section 202(j)(4).

(f) For purposes of subsection (b) (and (and for purposes of section 1837(q)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection.

shall not include any month which occurred during such previous period.

[(f)] (*g*) For entitlement to hospital insurance benefits in the case of certain uninsured individuals, see section 103 of the Social Security Amendments of 1965.

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

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Part A—Aid to Families With Dependent Children Appropriation

Section 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for aid and services to needy families with children.

State Plans for Aid and Services to Needy Families With Children

Sec. 402. (a) A State plan for aid and services to needy families with children must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any expenses reasonably attributable to the earning of any such income;

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income; except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such em-

ployer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;

(9) provide safeguards which restrict the use of disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, [and] (C) the administration of any other Federal or federally assigned program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, *and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity*; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (*other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause*), of any information which identifies by name or address any such applicant or recipient;

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals;

(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

(13) [Repealed].

(14) [Repealed].

(15) provide as part of the program of the State for the provision of services under title XX (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a

relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17) [Repealed].

(18) [Repealed].

(19) provide—

(A) [that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, and employment as provided by regulations of the Secretary of Labor, unless such individual is—] *that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—*

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; [or]

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor [under section 433(g)] to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph); *or*

(*vii*) *a person who is working not less than 30 hours per week;*

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid *to families with dependent children* under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434[, and income derived from a special work project under the program established by section 432(b)(3)] shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) and (3) shall be taken into account;

(F) that if [and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))] (*and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor*) *any child, relative or individual* has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) and (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the deter-

mination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7); *and*

[except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b)(2) (without regard to clauses (A) through (E) thereof) on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be, to participate in such program in accordance with the determination of the Secretary of Labor; and]

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit (*which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3)*) and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to subparagraph (A)[,] *of this paragraph,* I in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under [part C] *section 432(b) (1), (2), or (3),* and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for [employment or training under part C,] *employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,* (iii) will participate in the development of operational and employability plans under section 433(b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

(21) [Repealed].

(22) [Repealed].

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionally adjusted;

(24) provide that if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family until this title;

(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;

(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

(A) to such the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii), which have accrued at the time such assignment is executed.

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section);

(27) provide, that the State has in effect a plan approved under part D and operate a child support program in conformity with such plan;

(28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part; [and]

(29) effective October 1, 1979, provided that wage information available from the Social Security Administration under the provisions of section 411 of this Act, and wage information available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act) from agencies administering State unemployment compensation laws, shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws[.]

(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirment which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually

report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organizations, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for em-

ployment by the State agency or by the local agency administering the plan in the political subdivision, [and]

(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by attorneys retained under contract for that purpose by the State agency or such a local agency, [*and*]

(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and

[(B)] *(E)* one-half of the remainder of such expenditures, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a)(1) of this Act other than services the provision of which is required by section 402(a)(19) to be included in the plan of the State; *, and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 per centum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision* and

(4) [Repealed].

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 406(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for

purposes of paragraph (1) or (2), may not exceed 20 per centum of the number of other recipients of aid to families with dependent children for such month. In computing such 20 percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F) or section 402(a)(26).

In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, [and] (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan, *and (C) reduced by such amount as is necessary to provide the appropriate reimbursement of the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section*; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amounts so certified.

(c) Notwithstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under [part C] *section 432(b)(1), (2), or (3)*, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 402(a)(19)(G). *In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.*

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

Access to Wage Information

Sec. 411. (a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.

Technical Assistance for Developing Management Information Systems

Sec. 412. *The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act.*

* * * * * * *

Part D—Child Support and Establishment of Paternity Appropriation

Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establish-

ing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

Duties of the Secretary

Sec. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453; and

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State

and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the number of child support cases in each State during each quarter of the fiscal year last ending before the report is submitted and during each quarter of the preceding fiscal year (including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies), and the disposition of such cases;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 402(a)(26)(B)(ii));

(G) data, by State, on the use of Federal courts and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government; and

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State *(or undertaken to be collected by such State pursuant to section 454(6))* to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) (1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(d) (1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reports the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) contains an implementation plan and backup procedures to handle possible failures,

(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

(G) provides such other information as the Secretary determines under regulation is necessary.

(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with

respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information system referred to in section 455(a)(3) of this Act.

* * * * * * *

State Plan for Child Support

Sec. 454. A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an

application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperative with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plans of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 457;

(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments;

(14) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe; [and]

(15) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would

permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary)[.]; *and*

(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d) of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.

Payments to States

Sec. 455. (a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, [and]

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 454 except as is provided by a waiver

by the Secretary which is granted pursuant to specific authority set forth in the law; *and*

(3) equal to 90 percent (rather than the percent specified in clause (1) or (2) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454 (16);

except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 454(6) during any period beginning after September 30, 1978.

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) [The] *Subject to subsection (d), the* Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such state (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the twelve-month period beginning January 1, 1978.

(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.

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(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).

Support Obligations

Sec. 456. (a) The support rights assigned to the State under section 402(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the asigned suport rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1)(A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

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Access to Wage Information

Sec. 463. *(a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.*

(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is only for the purposes authorized by this section.

(c) For disclosure of return information (as defined in section 6103 (b) of the Internal Revenue Code of 1954) contained in the records

of the Social Security Administration for purposes described in paragraph (a), see section 6103(l)(7) of such Code.

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TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

Adjustment of Retroactive Benefit Under Title II on Account of Supplemental Security Income Benefits

Sec. 1132. *Notwithstanding any other provision of this Act, in any case where an individual—*

(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93–66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments, described in paragraph (2) for such months or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.

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TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Basic Eligibility for Benefits

Section 1602. Every aged, blind, or disabled individual who is determined under part A to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of

this title, be paid benefits by the Secretary of Health, Education, and Welfare.

Part A—Determination of Benefits

Eligibility for and Amount of Benefits

Definition of Eligible Individual

Sec. 1611. (a)(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1612(b), is at a rate of not more than $1,752 (or, if greater, the amount determined under section 1617)[1] for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1613(a), are not more than (i) in case such individual has a spouse with whom he is living, $2,250, or (ii) in case such individual has no spouse with whom he is living $1,500,

shall be an eligible individual for purposes of this title.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1612(b), is at a rate of not more than $2,628 (or, if greater, the amount determined under section 1617)[1] for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1613(a), are not more than $2,250,

shall be an eligible individual for purposes of this title.

Amounts of Benefits

(b)(1) The benefit under this title for an individual who does not have an eligible spouse shall be payable at the rate of $1,752 (or, if greater, the amount determined under section 1617) [1] for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual.

(2) The benefit under this title for an individual who has an eligible spouse shall be payable at the rate of $2,628 (or, if greater, the amount determined under section 1617) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1612(b), of such individual and spouse.

Period for Determination of Benefits

(c)(1) An individual's eligibility for benefits under this title and the amount of such benefits shall be determined for each quarter of a calendar year except that, if the initial application for benefits is filed in the second or third month of a calendar quarter, such determinations shall be made for each month in such quarter. Eligibility for and the amount of such benefits for any quarter shall be redetermined at such time or times as may be provided by the Secretary.

(2) For purposes of this subsection an application shall be considered to be effective as of the first day of the month in which it was actually filed.

Special Limits on Gross Income

(d) The Secretary may prescribe the circumstances under which, consistently with the purposes of this title, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this title. For purposes of this subsection, the term "gross income" has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

Limitation on Eligibility of Certain Individuals

(e)(1)(A) Except as provided in subparagraph (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of $300 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of $300 per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in section (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

(iii) at a rate not in excess of $600 per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term "public institution" does not include a publicly operated community residence which serves no more than 16 residents.

(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a)(2)(B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of

this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approve for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

(4) No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).

Suspension of Payments to Individuals Who Are Outside the United States

(f) Notwithstanding any other provision of this title, no individual shall be considered an eligible individual for purposes of this title for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this title with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

Certain Individuals Deemed To Meet Resources Test

(g) In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that

the resources of such individual or individual and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

Certain Individuals Deemed To Meet Income Test

(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual with his spouse (as the case may be) who—

(1) receved aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection.

Income

Meaning of Income

Sec. 1612. (a) For purposes of this title income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 203(f)(5)(C); [and]

(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

(C) remuneration received for services performed in a sheltered workshop or work activities center; and

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, of any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income

of such individual (and spouse) as otherwise required by this subparagraph, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefore (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974, and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and

(F) rents, dividends, interest, and royalties.

Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) Monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.

(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first

$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child one-third of any payment for his suport received from an absent parent;

(10) any amounts received for the foster care of a child who is not an eligible individual but who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(11) assistance received under the Disaster Relief Act of 1974 or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President; and

(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).

Resources

Exclusions From Resources

Sec. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resource of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan;

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act; and

(6) assistance referred to in section 1612(b)(11) for the 9-month period beginning on the date such funds are received (or

for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1612(b)(12).

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

Disposition of Resources

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

Meaning of Terms

Aged, Blind, or Disabled Individual

Sec. 1614. (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

[(B) is a resident of the United States, and is either (i) a citizen or (ii) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).]

(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the three-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the three-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act, or has been granted political

asylum by the Attorney General, or (II) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within three years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within three years after such date of admission.

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. *In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficient severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.* Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of *subparagraph (F)* paragraph (4), shall be found not to be disabled.

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.

(4)(A) For purposes of this title, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term "services" means activity which is performed for remuneration or gain or is determined by the Secretary to be of a type normally performed for remuneration or gain.

(B) The term "period of trial work", with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this title on the basis of his disability; but no such period may begin for an individual which is eligible for benefits under this title on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).

Eligible Spouse

(b) For purposes of this title, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1611(a).

Definition of Child

(c) For purposes of this title, the term "child" means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

Determination of Marital Relationships

(d) In determining whether two individuals are husband and wife for purposes of this title, appropriate State law shall be applied; except that—

(1) if a man and woman have been determined to be husband and wife under section 216(h)(1) for purposes of title II they shall be considered (from and after the date of such determination or the date of their application for benefits under this title, whichever is later) to be husband and wife for purposes of this title, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title notwithstanding any other provision of this section.

United States

(e) For purposes of this title, the term "United States", when used in a geographical sense, means the 50 States and the District of Columbia.

Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age [21] *18*, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

* * * * * * *

Optional State Supplementation

Sec. 1616. (a) Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this title or who would but for their income be eligible to receive benefits under this title, as assistance based on need in supplementation of such benefits (as determined by the Secretary), shall be excluded under section 1612(b)(6) in determining the income of such individuals for purposes of this title and the Secretary and such State may enter into an agreement which satisfies subsection (b) under which the Secretary will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Any agreement between the Secretary and a State entered into under subsection (a) shall provide—

(1) that such payments will be made (subject to subsection (c)) to all individuals residing in such State (or subdivision) who are receiving benefits under this title, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary (subject to subsection (c)) to achieve efficient and effective administration of both the program which he conducts under this title and the optional State supplementation.

(c)(1) Any State (or political subdivision) making supplementary payments described in subsection (a) may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Secretary under such subsection, a residence requirement which excludes individuals who have resided in the State

(or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a), may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.

* * * * * * *

Benefits for Individuals Who Perform Substantial Gainful Activity Despite Severe Medical Impairment

Sec. 1619. *(a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of section 1611(e)(4), or who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—*

(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind individual who would qualify for a monthly benefit under section 1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of title XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.

Part B—Procedural and General Provisions

Payments and Procedures

Payment of Benefits

Sec. 1631. (a) (1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse).

(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this title shall apply.

(4) The Secretary—

(A) may make to any individual initially applying or benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability or blindness for a period not exceeding 3 months prior to the determination of such individual's disability or blindness, if such individual is presumptively disabled or blind and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) solely because such individual is determined not to be disabled or blind.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), and who ceases to be blind or to be under such disability, shall continue (so long as such individual is otherwise eligible)

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through the second month following the month in which such blindness or disability ceases.

(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.

Overpayments and Underpayments

(b)(*1*) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.

Hearings and Review

(c)(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. *Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence and stating the Secretary's determination and the reason or reasons upon which it is based.* The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or re-

verse his findings of fact and such decision. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1614(a)(3)), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205.

Procedures; Prohibition of Assignments; Representation of Claimants

(d)(1) The provisions of section 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

(2) The Secretary may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys, as hereinafter provided, representing claimants before the Secretary under this title, and may require of such agents or other persons, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Secretary. The Secretary may, after due notice and opportunity for hearing, suspend or prohibit from further practice before him any such person, agent, or attorney who refuses to comply with the Secretary's rules and regulations or who violates any provision of this paragraph or which a penalty is prescribed. The Secretary may, by rule and regulation, prescribe the maximum fees which may be charged for services performed in connection with any claim before the Secretary under this title, and any agreement in violation of such rules and regulations shall be void. Any person who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant or beneficiary under this title by word, circular, letter, or advertisement, or who shall knowingly charge or collect directly or indirectly any fee in excess of the maximum fee, or make any agreement directly or indirectly to charge or collect any fee in excess of the maximum fee, prescribed by the Secretary, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall for each offense be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both.

Applications and Furnishing of Information

(e)(1)(A) The Secretary shall, subject to subparagraph (B), prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this title.

(B) The requirements prescribed by the Secretary pursuant to subparagraph (A) shall require that eligibility for benefits under this title will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.

(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this title as required by the Secretary under paragraph (1), or delay by any individual in submitting a report as so required, the Secretary (in addition to taking any other action he may consider appropriate under paragraph (1) shall reduce any benefits which may subsequently become payable to such individual under this title by—

(A) $25 in the case of the first such failure or delay,

(B) $50 in the case of the second such failure or delay, and

(C) $100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

Furnishing of Information by Other Agencies

(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

Reimbursement to States for Interim Assistance Payments

(g)(1) Notwithstanding subsection (d)(1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision).

(2) For purposes of this subsection, the term "benefits" with respect to any individual means supplemental security income benefits under this title, and any State supplementary payments under section 1616 or under section 212 of Public Law 93–66 which the Secretary makes on behalf of a State (or political subdivision thereof), that the Secretary has determined to be due with respect to the individual at the

time the Secretary makes the first payment of benefits. A cash advance made pursuant to subsection (a)(4)(A) shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs during the period, beginning with the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Secretary which shall provide—

(A) that if the Secretary makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Secretary finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this title, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) shall not be applicable to any disagreement concerning payment by the Secretary to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

(6) [Repealed]

Payment of Certain Travel Expenses

(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.

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TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

Prohibition Against Any Federal Interference

Section 1801. Nothing in this title shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer of employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

Free Choice by Patient Guaranteed

Sec. 1802. Any individual entitled to insurance benefits under this title may obtain health services from any institution, agency, or person qualified to participate under this title if such institution, agency, or person undertakes to provide him such services.

Option to Individuals To Obtain Other Health Insurance Protection

Sec. 1803. Nothing contained in this title shall be construed to preclude any State from providing, or any individual from purchasing or otherwise securing, protection against the cost of any health services.

Part A—Hospital Insurance Benefits for the Aged and Disabled

Description of Program

Sec. 1811. The insurance program for which entitlement is established by sections 226 and 226A provides basic protection against the cost of hospital and related post-hospital services in accordance with this part for (1) individuals who are age 65 or over and are entitled to retirement benefits under title II of this Act or under the railroad retirement system, (2) individuals under age 65 who have been entitled for not less than 24 [consecutive] months to benefits under title II of this Act or under the railroad retirement system on the basis of a disability, and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

Scope of Benefits

Sec. 1812. (a) The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1814(d)(2) to him (subject to the provisions of this part) for—

(1) inpatient hospital services for up to 150 days during any spell of illness minus one day for each day of inpatient hospital services.

(2) by the agency or organization which entered into such agreement at such time and upon such notice to the Secretary, to the public, and to the providers as may be provided in regulations, or

(3) by the Secretary at such time and upon such notice to the agency or organization, to the providers which have nominated it for purposes of this section, and to the public, as may be provided in regulations, but only if he finds, after applying the standards, criteria, and procedures developed under subsection (f) and after reasonable notice and opportunity for hearing to the agency or organization, that (A) the agency or organization has failed substantially to carry out the agreement, or (B) the continuation of some or all of the functions provided for in the agreement with the agency or organization is disadvantageous or is inconsistent with the efficient administration of this part.

(h) An agreement with an agency or organization under this section may require any of its officers or employees certifying payments or disbursing funds pursuant to the agreement, or otherwise participating in carrying out the agreement, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

(i)(1) No individual designated pursuant to an agreement under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

(2) No disbusing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer designated as provided in paragraph (1) of this subsection.

(3) No such agency or organization shall be liable to the United States for any payments referred to in paragraph (1) or (2).

Federal Hospital Insurance Trust Fund

Sec. 1817. (a) * * *

(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual costs or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any persons shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.

Enrollment Periods

Sec. 1837. (a) An individual may enroll in the insurance program established by this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed in or under this section.

(b) No individual may enroll under this part more than twice.

(c) In the case of individuals who first satisfy paragraph (1) or (2) of section 1836 before March 1, 1966, the initial general enrollment period shall begin on the first day of the second month which begins after the date of enactment of this title and shall end on May 31, 1966. For purposes of this subsection and subsection (d), an individual who has attained age 65 and who satisfies paragraph (1) of section 1836 but not paragraph (2) of such section shall be treated as satisfying such paragraph (1) on the first day on which he is (or on filing application would have been) entitled to hospital insurance benefits under part A.

(d) In the case of an individual who first satisfies paragraph (1) or (2) of section 1836 on or after March 1, 1966, his initial enrollment period shall begin on the first day of the third month before the month in which he first satisfies such paragraphs and shall end seven months later. Where the Secretary finds that an individual who has attained age 65 failed to enroll under this part during his initial enrollment period (based on a determination by the Secretary of the month in which such individual attained age 65), because such individual (relying on documentary evidence) was mistaken as to his correct date of birth, the Secretary shall establish for such individual an initial enrollment period based on his attaining age 65 at the time shown in such documentary evidence (with a coverage period determined under section 1838 as though he had attained such age at that time).

(e) There shall be a general enrollment period, after the period described in subsection (c), during the period beginning on January 1 and ending on March 31 of each year beginning with 1969.

(f) Any individual—

(1) who is eligible under section 1836 to enroll in the medical insurance program by reason of entitlement to hosptial insurance benefits as described in paragraph (1) of such section, and

(2) whose initial enrollment period under subsection (d) begins after March 31, 1973, and

(3) who is residing in the United States, exclusive of Puerto Rico,

shall be deemed to have enrolled in the medical insurance program established by this part.

(g) All of the provisions of this section shall apply to individuals satisfying subsection (f), except that—

(1) in the case of an individual who satisfies subsection (f) by reason of entitlement to disability insurance benefits described in section 226(a)(2)(B), his initial enrollment period shall begin on the first day of the later of (A) April 1973 or (B) the third month before the 25th [consecutive] month of such entitlement, and shall reoccur with each continuous period of eligibility (as defined in section 1839(e)) and upon attainment of age 65;

(2)(A) in the case of an individual who is entitled to monthly benefits under section 202 or 223 on the first day of his initial enrollment period or becomes entitled to monthly benefits under section 202 during the first 3 months of such period, his enrollment shall be deemed to have occurred in the third month of his initial enrollment period, and

(B) in the case of an individual who is not entitled to benefits under section 202 on the first day of his initial enrollment period and does not become so entitled during the first 3 months of such period, his enrollment shall be deemed to have occurred in the month in which he files the application establishing his entitlement to hospital insurance benefits provided such filing occurs during the last 4 months of his initial enrollment period; and

(3) in the case of an individual who would otherwise satisfy subsection (f) but does not establish his entitlement to hospital insurance benefits until after the last day of his initial enrollment period (as defined in subsection (d) of this section), his enrollment shall be deemed to have occurred on the first day of the earlier of the then current or immediately succeeding general enrollment period (as defined in subsection (e) of this section).

(h) In any case where the Secretary finds that an individual's enrollment or nonenrollment in the insurance program established by this part or part A pursuant to section 1818 is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

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TITLE XX—GRANTS TO STATES FOR SERVICES

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Program Reporting

Sec. 2003. (a) Each State which participates in the program established by this title shall make such reports concerning its use of Federal social services funds as the Secretary may by regulation provide.

(b) Each State which participates in the program established by this title shall assure that the aggregate expenditures from appropriated funds from the State and political subdivisions thereof for the provision of services during each services program year (as established under the requirements of section 2002(a)(3)) with respect to which payment is made under section 2002 is not less than the aggregate expenditures from such appropriated funds for the provision of those services during the fiscal year ending June 30, 1973, or the fiscal year ending June 30, 1974, with respect to which payment was made under the plan of the State approved under title I, VI, X, XIV, or XVI, or part A of title IV, whichever is less, except that the requirements of this subsection shall not apply to any State for any services program year if the payment to the State under section 2002, for each fiscal year any part of which is included in that services program year, with respect to expenditures other than expenditures for personnel training or retaining directly related to the provision of services, equals the allotment of the State for that fiscal year under section 2002(a)(2).

(c)(1) If the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds that there is a substantial failure to comply with any of the requirements imposed by subsections (a) and (b) of this section, he shall, except as provided in paragraph (2), notify the State that further payments will not be made to the State under section 2002 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(2) The Secretary may suspend implementation of any termination of payments under paragraph (1) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2002 for expenditures during that period by 3 per centum for each of subsections (a) and (b) of this section with respect to which there was a finding of substantial noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(d)(1) Each State which participates in the program established by this title shall have a plan applicable to its program for the provision of the services described in section 2002(a)(1) which—

(A) provides that an opportunity for a fair hearing before the appropriate State agency will be granted to any individual whose claim for any service described in section 2002(a)(1) is denied or is not acted upon with reasonable promptness;

(B) provides that the use or disclosure of information obtained in connection with administration of the State's program for the provision of the services described in section 2002(a)(1) concerning applicants for and recipients of those services will be restricted to purposes directly connected with the administration of that program, the plan of the State approved under part A of title IV, the plan of the State developed under part B of that title, the supplemental security income program established by title XVI, [or] the plan of the State approved under title XIX, *or any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity;*

(C) provides for the designation by the chief executive officer of the State or as otherwise provided by the laws of the State, of an appropriate agency which will administer or supervise the administration of the State's program for the provision of the services described in section 2002(a)(1);

(D) provides that the State will, in the administration of its program for the provision of the services described in section 2002(a)(1), use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the program, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(E) provides that no durational residency or citizenship requirement will be imposed as a condition to participation in

the program of the State for the provision of the services described in section 2002(a)(1);

(F) provides, if the State program for the provision of the services described in section 2002(a)(1) includes services to individuals living in institutions or foster homes, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions or homes which are reasonaly in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admissions policies, safety, sanitation, and protection of civil rights;

(G) provides, if the State program for the provision of the services described in section 2002(a)(1) includes child day care services, for the establishment or designation of a State authority

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the State for services to the aged, blind, or disabled related to blind individuals may be designated to administer or supervise the administration of the portion of the State's program for the provision of the services described in section 2002(a)(1) related to blind individuals and a separate State agency may be designated to administer or supervise the administration of the rest of the program; and in such case the part of the program which each agency administers, or the administration of which each agency supervises, shall be regarded as a separate program for the provision of the services described in section 2002(a)(1) for purposes of this title. The date selected by the State pursuant to section 2004(1) as the beginning of the services program year for each of the separate programs shall be the same.

(2) The Secretary shall approve any plan which complies with the provisions of paragraph (1).

(e)(1) No payment may be made under section 2002 to any State which does not have a plan approved under subsection (g).

(2) In the case of any State plan which has been approved by the Secretary under subsection (d), if the Secretary, after reasonable notice and an opportunity for a hearing to the State, finds—

(A) that the plan no longer complies with the provisions of subsection (d)(1), or

(B) that in the administration of the plan there is a substantial failure to comply with any such provision.

the Secretary shall, except as provided in paragraph (3), notify the State that further payments will not be made to the State under section 2002 until he is satisfied that there will no longer be any such failure to comply, and until he is so satisfied he shall make no further payments to the State.

(3) The Secretary may suspend implementation of any termination of payments under paragraph (2) for such period as he determines appropriate and instead reduce the amount otherwise payable to the State under section 2002 for expenditures during that period by 3 percent for each clause of subsection (d)(1) with respect to which there is a finding of noncompliance and with respect to which he is not yet satisfied that there will no longer be any such failure to comply.

(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.

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SELECTED PROVISIONS OF THE INTERNAL REVENUE CODE OF 1954

26 U.S.C. 1—

Subtitle C—Employment Taxes

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SUBCHAPTER C—GENERAL PROVISIONS

SEC. 3121. DEFINITIONS.

(a) WAGES.—For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

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(6) the payment by an employer (without deduction from the remuneration of the employee)—

[(A) of the tax imposed upon an employee under section 3101 (or the corresponding section of prior law), or]

* * * * * * *

(A) of the tax imposed upon an employee under section 3101 for wages paid for domestic service in a private home of the employer, or

(1) by which the contributions paid by such organization (or group) with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating account of such organization (or group) or paid under the State law on the basis of wages paid by it or service performed in its employ, whichever is appropriate.

(g) TRANSITIONAL RULE FOR UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976.—To facilitate the orderly transition to coverage of service to which section 3309(a)(1)(A) applies by reason of the enactment of the Unemployment Compensation Amendments of 1976, a State law may provide that an organization (or group of organizations) which elects, when such election first becomes available under the State law with respect to such service, to make payments (in lieu of contributions) into the State unemployment fund as provided in section 3309(a)(2), and which had paid contributions

into such fund under the State law with respect to such service performed in its employ before the date of the enactment of this subsection, is not required to make any such payment (in lieu of contributions) on account of compensation paid after its election as heretofore described which is attributable under the State law to such service performed in its employ, until the total of such compensation equals the amount—

(1) by which the contributions paid by such organization (or group) on the basis of wages for such service with respect to a period before the election provided by section 3309(a)(2), exceed

(2) the unemployment compensation for the same period which was charged to the experience-rating accounting of such organization (or group) or paid under the State law on the basis of such service performed in its employ or wages paid for such service, whichever is appropriate.

SEC. 3304. APPROVAL OF STATE LAWS.

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(17) (A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determining by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the purposes authorized under subparagraph (A);

[(17)] *(18)* all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.[1]

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Subtitle F—Procedure and Administration

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CHAPTER 61—INFORMATION AND RETURNS

SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State or of any local child support enforcement agency who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), subsection (m)(4)(B), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.

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(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION AND RAILROAD RETIREMENT BOARD.—The Secretary may, upon written request, disclose returns and return information with respect to—

(A) taxes imposed by chapter 2, 21, and 24, to the Social Security Administration for purposes of its administration of the Social Security Act;

(B) a plan to which part I of subchapter D of chapter 1 applies, to the Social Security Administration for purposes of carrying out its responsibility under section 1131 of the Social Security Act, limited, however to return information described in section 6057(d); and

(C) taxes imposed by chapter 22, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement Act.

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(5) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Upon written request by the Secretary of Health, Education, and Welfare, the Secretary may disclose information returns filed pursuant to part III of subchapter A of chapter 61 of this subtitle for the purpose of carrying out, in accordance with an agreement entered into pursuant to section 232 of the Social Security Act, an effective return processing program.

(6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency—

(i) available return information from the master files of the Internal Revenue Service relating to the address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought

to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

(7) DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—

(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of the Social Security Administration shall upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121 (a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section

3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a)(16) or (17).

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(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary, returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration.

(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programming, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (1)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act.

(p) PROCEDURE AND RECORDKEEPING.—

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(3) Records of inspection and disclosure.—

(A) System of recordkeeping.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (h)(1), (3)(A), or (4), (i)(4) or (6)(A)(ii), (k)(1), (2), or (6), [(l)(1) or (4)(B) or (5)] *(l)(1), (4)(B), (5), or (7)*, (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as

may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

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(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the General Accounting Office, or any [agency, body, or commission described in subsection (d) or (l)(3) or (6)] *agency, body, or commission described in subsection (d) or (l)(3), (6), or (7)* shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

(B) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such returns or return information shall be stored;

(C) restrict, to the satisfaction of the Secretary, access to the returns or return information only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this title;

(D) provide such other safeguards which the Secretary determines (and which he prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the returns or return information;

(E) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by such agency, body, or commission or the General Accounting Office for ensuring the confidentiality of returns and return information required by this paragraph; and

(F) upon completion of use of such returns or return information—

(i) in the case of [an agency, body, or commission described in subsection (d) or (l)(6)] *an agency, body, or commission described in subsection (d) or (l)(6) or (7)*, return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1) or (2), (l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3), or the General Accounting Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information.

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

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SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

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(2) State and other employees.—It shall be unlawful for any officer, employee, or agent, or former officer, employee, or agent, of any State (as defined in section 6103(b)(5)), any local child support enforcement agency or any educational institution willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection [(d), (l)(6), or (m)(4)(B)] *subsection (d), (l)(6), or (7) or (m)(4)(B)* of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

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Excerpts From Public Law 93-66, As Amended

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TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

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Part B—Provisions Relating to Federal Program of Supplemental Security Income

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Supplemental Security Income Benefits For Essential Persons

SEC. 211. (a) (1) In determining (for purposes of Title XVI of the Social Security Act, as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

(A) the dollar amounts specified in subsection (a) (1) (A) and (2) (A), and subsection (b) (1) and (2), of section 1611 of such Act, shall each be increased by $876 for each such essential person, and

(B) the income and resources of such individual shall (for purposes of such title XVI) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

(C) does not but would (except for the provisions of subparagraph (B)) meet—

(i) the criteria established with respect to income in section 1611(a) of such Act, or

(ii) the criteria established with respect to resources by such section 1611(a), (or, if applicable, by section 1611(g) of such Act).

(2) The provisions of section 1611(g) of the Social Security Act (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

(b) For purposes of this section, an individual shall be a "qualified individual" only if—

(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act, and

(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

(A) was living in the home of such individual, and

(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

(c) The term "essential person", when used in connection with any qualified individual, means a person who—

(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in

determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

(2) lives in the home of such individual,

(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act (as in effect after December 1973), and

(4) is not the eligible spouse (as that term is used in such title XVI) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person.

Mandatory Minimum State Supplementation of SSI Benefits Program

SEC. 212. (a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands (to be eligible for payments pursuant to title XIX, with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972), and

(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title I, X, XIV, or XVI, of the Social Security Act)

shall be entitled to receive, from the State, the supplementary payments described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

(C) the month in which such individual dies, or

(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A);

except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A), (2), or (3), 1611(f), or 1615(c) of such Act.

(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection, shall (except as provided in subparagraph (D) and (E)) be an amount equal to (i) the amount by which such individual's "December 1973 income" (as determined under subparagraph (B)) exceeds the amount of such individual's "title XVI benefit plus other income" (as

determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

(B) For purposes of subparagraph (A), an individual's "December 1973 income" means an amount equal to the aggregate of—

(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title I, X, XIV, or XVI, of the Social Security Act) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92–603, if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act, and (II) the level of which has been found by the Secretary pursuant to section 8 of Public Law 93–233 to have been specifically increased so as to include the bonus value of food stamps, and

(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

(C) For purposes of subparagraph (A), the amount of an individual's "title XVI benefit plus other income" for any month means an amount equal to the aggregate of—

(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act, and

(ii) the amount of any income of such individual for such month (other than income in the firm of a benefit described in clause (i)).

(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such months and for each month thereafter the amount of the supplementary payment payable under

the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act, such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act, and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act.

(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).

(b)(1) Any State having an agreement with the Secretary under subsection (a) may enter into an administration agreement with the Secretary whereby the Secretary will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

(2) Any such administration agreement between the Secretary and a State entered into under this subsection shall provide that the State will (A) certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act, together with the amount of such assistance payable to each such individual and the amount of such individual's December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Secretary with such additional data at such times as the Secretary may resonably require in order properly, economically, and efficiently to carry out such administration agreement.

(3) Any State which has entered into an administration agreement under this subsection shall, at such times and in such installments as may be agreed upon between the Secretary and the State, pay to the

Secretary an amount equal to the expenditures made by the Secretary as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a).

(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act (as so in effect).

(2) Supplementary payments made by the Secretary (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972, be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Secretary, the provisions of subsection (b) of such section 401.

(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Secretary under section 1616 of the Social Security Act under which—

(1) individuals, other than individuals described in subsection (a)(2) (A) and (B), are entitled to receive supplementary payments, and

(2) supplementary benefits are payable, to individuals described in subsection (a)(2) (A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

(e) Except as the Secretary may by regulations otherwise provide, the provisions of title XVI of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title, relating to the terms and conditions under which the benefits authorized by such title are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Secretary by such title may, where appropriate, be exercised by him in the administration of this section.

(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act.

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Excerpts From Public Law 95–216

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1977".

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SEC. 301. (a) * * *

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(c)(1) * * *

(2) No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977, 1978, 1979, 1980, or 1981; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act (as so added).

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(1) changes in the nature and extent of women's participation in the labor force,

(2) the increasing divorce rate, and

(3) the economic value of women's work in the home.

The study shall include appropriate cost analyses.

(b) The Secretary shall submit to the Congress within six months after the date of the enactment of this Act a full and complete report on the study carried out under subsection (a).

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PART F—NATIONAL COMMISSION ON SOCIAL SECURITY

ESTABLISHMENT OF COMMISSION

SEC. 361. (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the

demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for [a term of two years] *a term which shall end on April 1, 1981.*

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b) (1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits including the measurement of an adequate retirement income, and the conditions of qualification for benefits provided by such programs including the application of the retirement income test to unearned as well as earned income

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities

and inequalities arising out of marital status, sex, or similar classifications or categories;

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax with the financing of such programs being accomplished in some other manner (including general revenue funding and the retirement bond), (ii) the establishment of a system providing for mandatory participation in any or all of the Federal programs, (iii) the integration of such current Federal programs with private retirement programs, and (iv) the establishment of a system permitting covered individuals a choice of public or private programs or both;

(F) the need to develop a special Consumer Price Index for the elderly, including the financial impact that such an index would have on the costs of the programs established under the Social Security Act; and

(G) methods for effectively implementing the recommendations of the Commission.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c) (1) No later than four months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first two years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The second such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; [and upon the submission of such final report the Commission shall cease to exist.] *and the Commission shall cease to exist on April 1, 1981.*

(d) (1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

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Section 7 of the Railroad Retirement Act

POWERS AND DUTIES OF THE BOARD

SEC. 7(a) * * *

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(d)(1) The Board shall, for purposes of this subsection, have the same authority to determine the rights of individuals described in subdivision (2) to have payments made on their behalf for hospital insurance benefits consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as "services") under section 226, and parts A and C of title XVIII, of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section and such parts with respect to individuals to whom such sections and such parts apply. For purposes of section 8, a determination with respect to the rights of an individual under this subsection shall, except in the case of a provider of services, be considered to be a decision with respect to an annuity.

(2) Except as otherwise provided in this subsection, every person who—

(i) has attained age 65 and (A) is entitled to an annuity under this Act or (B) would be entitled to such an annuity had he ceased compensated service and, in the case of a spouse, had such spouse's husband or wife ceased compensated service; or

(ii) has not attained age 65 and (A) has been entitled to an annuity under section 2 of this Act, or under the Railroad Retire-

ment Act of 1937 and section 2 of this Act, or could have been includible in the computation of an annuity under section 3(f)(3) of this Act, for not less than 24 [consecutive] months and (B) could have been entitled for 24 [consecutive] calendar months, and could currently be entitled, to monthly insurance benefits under section 223 of the Social Security Act or under section 202 of that Act on the basis of disability if service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act and if an application for disability benefits had been filed,

shall be certified to the Secretary of Health, Education, and Welfare as a qualified railroad retirement beneficiary under section 226 of the Social Security Act.

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